

**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

R. 12-12-011

**APPLICATION OF
THE TAXICAB PARATRANSIT ASSOCIATION OF CALIFORNIA (TPAC)
FOR REHEARING OF DECISION 13-09-045**

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Pursuant to *Public Utilities Code* § 1731 and Rule 16.1 of the California Public Utilities Commission (“Commission” or “CPUC”) *Rules of Practice and Procedure*, the Taxicab Paratransit Association of California (“TPAC”) hereby applies for rehearing of Decision (D.) 13-09-045 (the “Decision”), which was issued on September 23, 2013.

I. INTRODUCTION

In D.13-09-045, the Commission authorized a new form of commercial transportation (designated Transportation Network Companies or “TNCs”) to operate on the public right-of-way over city streets and highways.¹ In doing so, the Commission made several material legal and factual errors which if not corrected will cause severe harm to the public, introduce a grossly unfair regulatory scheme, and directly contradict existing laws and regulations. TPAC seeks a rehearing to allow the

¹ “Public rights-of-way” means the area along and upon any public road or highway, or along or across any of the waters or lands within the state. *Cal. Pub. Util. Code* § 5830. “Public highway” includes every public street, road, or highway in this State. *Cal. Pub. Util. Code* § 5358.

Commission to correct the legal errors contained in the Decision expeditiously, and before it causes even greater harm.

First, before issuing the Decision the Commission did not observe the legal requirements of the California Environmental Quality Act (“CEQA”). In fact the Commission acknowledged its failing when it indicated that a CEQA review will not occur until one year after the Decision is in effect.² This attempt to circumvent CEQA is a clear violation of the law.

Second, the Commission wrongly concludes that the TNCs fall within its jurisdiction. The Decision misstates the Commission’s jurisdiction by focusing on prearrangement, a factor which is *not* determinative of the issue. The Commission was required to analyze whether TNCs fall within the definition of taxicabs pursuant to *Public Utilities Code* § 5353(g), in the same manner that it analyzed whether TNCs are subject to the ridesharing exemption pursuant to *Public Utilities Code* § 5353(h). Yet the Commission failed to do so. Under a correct analysis, TNCs are exempt from the Commission’s jurisdiction.

Third, the regulatory structure enacted by the issuance of the Decision violates the Equal Protection Clauses of both the Constitution of the United States and California. The Decision unfairly creates a new class of *de facto* taxicab transportation that is designed to be exempt from the local regulatory structure applicable to legitimate taxicab services - the structure mandated by the Legislature through *Government Code* § 53075.5. The Decision arbitrarily removes the TNCs from the greater class of companies providing nearly identical taxicab transportation services, and grants the TNCs the special privilege of avoiding the comprehensive taxicab regulatory scheme of the State.

Lastly, while the Decision purports to classify TNCs as charter party carriers, the Decision then exempts TNCs from portions of the *Public Utilities Code* which apply to *all* charter party carriers. The Decision provides no authority and no justification for allowing TNCs to violate the applicable statutes. Instead, the Decision merely declares standards for TNCs that directly conflict with the obligations

² Decision at p.74.

imposed by the Legislature on all charter party carriers (including TNCs).

The Decision is thus unlawful and erroneous. The Commission should grant a rehearing and conduct proceedings and issue rulings in compliance with California law.

II. THE COMMISSION ACTED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN ISSUING ITS DECISION.

The Decision is subject to CEQA,³ which requires the Commission to follow a specific review process if its actions may have an environmental impact. The environmental impact need not occur immediately; it is enough if it is reasonably foreseeable that environmental impacts *may* ultimately result.⁴ The Decision expressly acknowledges that it is subject to CEQA, stating:

“[t]he Commission will convene a workshop one year after the issuance of this decision to hear from all stakeholders on the impacts of this new mode of transportation and accompanying regulations. Workshops topics will include, but not necessarily be limited to, a consideration of safety, competition, innovation, accessibility, congestion, the *California Environmental Quality Act*, and other pollution related issues.”⁵

However, the Commission violated CEQA by failing to engage in the required analysis *before* it issued the Decision.⁶ The Commission cannot, as it did here, merely defer compliance with CEQA to a later date. From the inception of the instant rulemaking proceedings, the Commission was required to engage in CEQA’s mandatory procedures.⁷ By issuing the Decision without making the appropriate CEQA determinations, the Commission did not proceed in a manner required by law.

CEQA is a comprehensive scheme designed to maintain and protect the environment.⁸ Under CEQA, state agencies must give protection of the environment *primary* consideration to ensure that parochial interests do not override environmental considerations.⁹ All state agencies whose activities

³ Cal. Pub. Res. Code, § 21000, *et seq.*

⁴ *California Unions for Reliable Energy v. Mojave Desert Air Quality Mgmt. Dist.* (2009) 178 Cal.App.4th 1225, 1242.

⁵ Decision at p.74 (emphasis added).

⁶ See Pub. Res. Code § 21000 *et seq.*

⁷ Cal. Pub. Res. Code, § 21080(a); Cal. Code Regs., tit. 14, §§ 15060-15061. If an agency determines that its action is exempt from CEQA environmental procedures, CEQA requires that the agency’s exemption findings are supported by substantial evidence. See *Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d 827, 842.

⁸ *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112.

⁹ *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 1177; *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283; *Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 115-

affect environmental quality, including the Commission, must regulate “so that major consideration is given to preventing environmental damage[.]”¹⁰ Therefore, “[r]ulemaking proceedings” must comply with CEQA “... when the rule has the effect of weakening environmental standards ... [or] the new requirements *could* result in other potentially significant effects.”¹¹

The Commission may avoid further environmental review only if it determines that an action falls within a statutory, regulatory, or “common sense” exemption to CEQA.¹² Any assertion of an exemption must be specific and supported by substantial evidence.¹³ Therefore, CEQA requires that the Commission, at the very least, conduct an initial study to better define the nature and scope of its action and fully evaluate the environmental effects.¹⁴ *Before* issuing any decision, the Commission must make express findings, supported by evidence and investigation, regarding: (a) whether the decision would impact the environment; (b) whether the decision was exempt from CEQA; and (c) whether the Commission was required to proceed with the more formal process of preparing an environmental impact report or negative declaration.

In the instant proceedings, despite TPAC’s insistence on CEQA compliance, despite the Commission’s recognition that the transportation sector contributes over “40% of the greenhouse gas

116; *see also* *Pub. Res. Code*, § 21001(g) (Legislature intended state agencies to consider environmental costs and benefits in their decision-making).

¹⁰ *Cal. Pub. Res. Code*, § 21000(g).

¹¹ *Cal. Unions for Reliable Energy et al., supra*, 178 Cal.App.4th at 1240. Additionally, “[a] project, however, includes an activity that ‘may cause ... a reasonably foreseeable indirect physical change in the environment.’ Thus, an activity need not cause an immediate environmental impact to be considered a project.” *Id.* at 1243-1244 citing *Plastic Pipe and Fittings Association v. Cal. Building Standards Comm’n et al.*, 124 Cal.App.4th 1390, 1412 (2004).

¹² *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1230-1231; *Pub. Res. Code* § 21080, *et. seq.* (providing list of statutory exemptions, such as emergency repairs to public service facilities, construction of a power plant, reopening a prison, or choosing a site for a public university); *Cal. Code Regs. tit. 14*, § 15251 (providing list of certified regulatory programs, such as timber harvest operations, regulatory programs to protect fish and game, regulatory programs adopted by Air Resources Board to protect ambient air quality). Moreover, consistent with CEQA’s expansive scope, courts interpret these exemptions narrowly. *Mountain Lion Foundation, supra*, 16 Cal.4th at p. 125.

¹³ *See Dehne v. County of Santa Clara, supra*, 115 Cal.App.3d at 842.

¹⁴ *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267; *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 136 Cal.App.4th 1356, 1373; *Cal. Code Regs., tit. 14*, §§ 15063, 15070. In the event that substantial evidence shows that the proposed project would not significantly affect the environment, or that the Commission’s action has been revised to avoid or mitigate the effects, the Commission may prepare a “negative declaration.” *Cal. Pub. Res. Code* §§ 21064, 21080; *San Bernardino Valley Audubon Society v. Metropolitan Water Dist.* (1999) 71 Cal.App.4th 382, 389-390. On the other hand, if evidence shows that the project will significantly impact the environment, the agency must proceed with full environmental review and preparation of an environmental impact report discussing the effects, potential mitigation measures, and proposals to avoid those effects. *San Lorenzo Valley, supra*, 136 Cal.App.4th at 1372-1374.

emissions in the state of California”, and despite the Commission acknowledging that its Decision is subject to CEQA, the Commission neither made a determination that its action was exempt, nor proceeded with a more formal CEQA review.¹⁵ The Commission’s statement that it will consider CEQA at a later date does not satisfy its statutory obligations. Under CEQA, environmental considerations must occur *before* the agency commits to a project.¹⁶ The California Supreme Court has described such tactics as impermissible “post hoc rationalizations to support action already taken.”¹⁷ Post-approval consideration of environmental effects does not fulfill CEQA’s mandates.

Moreover, the Commission did not develop an evidentiary record relevant to a CEQA analysis, meaning that the record contains *no* evidence to support any exemption.¹⁸ This is especially pertinent since the Commission may not simply rely on its own opinion.¹⁹ The Commission made no findings relating to any statutory or regulatory exemption.²⁰ Additionally, the “common sense” exemption²¹ requires that the agency be “certain” that no environmental impacts *could* occur,²² which is clearly inapplicable to the creation of a transportation system based on passenger vehicles. The Commission’s determination of certainty must find support in substantial evidence within the evidentiary record and cannot be based upon mere conclusions.²³ Here, the Commission made no findings that would support

¹⁵ Decision at p. 23 citing *TransForm Opening Comments* filed on 01/28/13 at 1; *Id.* at p. 74.

¹⁶ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 79; *Bozung, supra*, 13 Cal.3d at 281-282.

¹⁷ *Laurel Heights Improvement Assn., supra*, 47 Cal.3d at 394.

¹⁸ Neither the *Order Instituting Rulemaking* nor the *Assigned Commissioner and Administrative Law Judge’s Scoping Memo and Ruling* (“*Scoping Memo*”) mentioned the environment as an issue to be explored during the course of the proceedings. As a result, the parties and the Commission did not have an opportunity to fully explore the environmental impact that the TNCs will have on the State.

¹⁹ *See Davidon Homes, supra*, 54 Cal.App.4th at 117-118 (statement that project was exempt was insufficient to dispense with further environmental review; the record must show that the agency considered possible environmental impacts in reaching its decision, especially where opponents have shown environmental effects may occur).

²⁰ In fact, no statutory or regulatory exemption applies to the creation of a new form of commercial transportation to operate on the public rights of way over city streets and highways. *See Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1230-1231; *Pub. Res. Code* § 21080, *et. seq.* (providing list of statutory exemptions, such as emergency repairs to public service facilities, construction of a power plant, reopening a prison, or choosing a site for a public university); *Cal. Code Regs., tit. 14, § 15251* (providing list of certified regulatory programs, such as timber harvest operations, regulatory programs to protect fish and game, regulatory programs adopted by Air Resources Board to protect ambient air quality).

²¹ The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. *See Cal. Code Regs., tit. 14, § 15060(c)(2)*.

²² *Muzzy Ranch Co. v. Solano County Airport Land Use Comm’n* (2007) 41 Cal.4th 372, 386; *Davidon Homes, supra*, 54 Cal.App.4th at 116-117.

²³ *See Dehne, supra*, 115 Cal.App.3d at 827, 842; *Davidon Homes, supra*, 54 Cal.App.4th at 116-117; *Cal. Code Regs., tit. 14, § 15384(a)*.

the “common sense” exemption.

The Commission’s failure to engage in this CEQA analysis *prior* to the issuance of its Decision is a direct violation of the law. TPAC respectfully requests that the Commission withdraw its Decision and institute further evidentiary hearings aimed at engaging in the analysis mandated by CEQA.

III. THE DECISION UNLAWFULLY IGNORES THAT TNCs ARE ENGAGING IN TAXICAB TRANSPORTATION SERVICES.

a. THE DECISION UNLAWFULLY MISSTATES THE COMMISSION’S JURISDICTION.

The Decision does not correctly define the Commission’s jurisdiction. As a result, the Decision does not correctly analyze whether TNCs are subject to the Commission’s authority. The Decision defines the Commission’s jurisdiction by focusing on two issues: (a) whether TNCs are transporting passengers for compensation;²⁴ and (b) whether TNCs operate on a prearranged basis.²⁵ This analysis is wrong. Prearrangement is not determinative of the Commission’s jurisdiction. As explained below, the correct analysis is: (a) whether TNCs are charter party carriers; and (b) whether an exemption listed in *Public Utilities Code* § 5353 is applicable to the TNCs.²⁶ By refusing to engage in the appropriate analysis, the Decision unlawfully misapplied the Commission’s jurisdiction.

The Commission’s jurisdiction as it relates to charter-party carriers is defined by the Passenger Charter-Party Carriers’ Act (the “Act”).²⁷ The Act states “[t]o the extent that such is not inconsistent with the provisions of this chapter, the commission may supervise and regulate every *charter-party carrier of passengers* in the State and may do all things, whether specifically designated in this part, or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.”²⁸ The Act defines a “charter-party carrier of passengers” as “[s]*ubject to the exclusions of Section 5353, [] every person engaged in the transportation of persons by motor vehicle for*

²⁴ Decision at pp. 18, 65.

²⁵ *Id.* at pp. 20, 70.

²⁶ Specifically, given that the CPUC acknowledged that *Public Utilities Code* § 5353(g) may be applicable to TNCs, the Decision was required to provide findings of fact and conclusions of law as to whether TNCs are providing taxicab transportation services, which it failed to do. *See Scoping Memo re R. 12-12-011*, p.6 (April 2, 2013).

²⁷ *Cal. Pub. Util. Code* § 5351 et seq.

²⁸ *Cal. Pub. Util. Code* § 5381 (emphasis added).

compensation, whether in common or contract carriage, over any public highway in this State.”²⁹

Public Utilities Code § 5353 lists fourteen transportation services that are expressly *exempted* from the Commission’s jurisdiction. Two were identified by the Commission as a basis for removing TNCs from the Commission’s jurisdiction, *Public Utilities Code* § 5353(g) and (h).³⁰ *Public Utilities Code* § 5353(g) states “[t]his chapter does not apply to any of the following: [] [t]axicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver.”³¹ In the instant context, the Decision was required to analyze whether TNCs provide taxicab transportation services in order to assess whether the TNCs fall within the Commission’s jurisdiction. Indeed, the Scoping Memo issued in this proceeding expressly asks the question “[d]o [TNCs] fit within the definition of taxicab services as provided by Pub. Util. Code § 5353(g)?”³²

While not addressing whether TNCs are, in fact, providing taxicab service, the Decision apparently relies solely on a new interpretation of the concept of “prearrangement” to argue that TNCs are within its general jurisdiction.³³ Yet, the Commission has expressly held that using a telephone to arrange for transportation services with a charter party carrier does not change the nature of the transportation services provided by the carrier.³⁴ In *Babaeian Transp. Co. v. Southern California Transit Corp.* (1992) 45 CPUC 2d 85, the defendant was a charter party carrier. The complainant alleged that the defendant was operating a *de facto* taxicab service in violation of the *Public Utilities Code* § 5353(g) and other statutory provisions.³⁵ The defendant claimed that it was merely taking “advantage of more flexible charter party regulation in GO 157, which allows short trips arranged on short notice by telephone.”³⁶ When analyzing this issue the Commission held

²⁹ *Cal. Pub. Util. Code* § 5360.

³⁰ *Scoping Memo*, *supra* at p.6.

³¹ *Cal. Pub. Util. Code* § 5353(h) is the ridesharing exemption which was thoroughly examined in the Decision.

³² *Scoping Memo*, *supra*, at p.6.

³³ Decision at pp. 20-21.

³⁴ *Babaeian Transp. Co. v. Southern California Transit Corp.* (1992) 45 CPUC 2d 85, 87.

³⁵ *Id.*

³⁶ *Id.*

“[i]t is true that GO 157 allows short notice reservations by telephone. However, interpreting the rule to allow the *majority* of transportation service to be short notice or immediate response, *gives the effect of allowing a charter-party carrier to operate a taxi service*. We cannot allow this interpretation to prevail. Under no interpretation of GO 157 may defendant operate a taxi service.”³⁷

The Decision ignores the law and the Commission’s own precedent to wrongly find that TNCs fall within its jurisdiction. The Commission has committed a legal error that should be immediately reversed.

b. TNCs PROVIDE TAXICAB TRANSPORTATION SERVICES.

TPAC has consistently argued throughout these proceedings that TNCs are not subject to Commission jurisdiction under *Public Utilities Code* § 5353(g), because they provide taxicab services. Other parties, including taxicab regulators from San Francisco, have also noted that the services provided by the TNCs do not materially differ from taxicab transportation services.³⁸ An appropriate analysis of TNCs reveals that their operations are subject to *Public Utilities Code* § 5353(g) and therefore, the TNCs do not fall within the Commission’s jurisdiction.

i. TNC Vehicles Provide Taxicab Services As Legally Defined By Local Governments.

Government Code § 53075.5 requires local governments to enact comprehensive rules and regulations regarding taxicab transportation services. *Government Code* § 53075.5, states

“[n]otwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the *Public Utilities Code* every city or county *shall* protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to *taxicab transportation service* rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within the jurisdiction of the city or county.”

The statute further states “[e]ach city or county shall provide for, but is not limited to providing for, the

³⁷ *Id* (emphasis added). “Scott Schaeffer, complainant's general manager, estimates that taxi service has an average response time of 15 minutes, an average trip distance of 2 1/2 - 3 miles and an average trip time of 10-12 minutes. Schaeffer estimates that 75% of taxi advertising is in the ‘yellow pages’ of telephone directories and 90% of service requests are by telephone. He considers defendant's operations to be the same as taxi service.” *Id* at 87.

³⁸ See *San Francisco Municipal Transportation Agency* – Reply Comments to OIR, R.12-12-011 (Feb. 11, 2013); *United Taxicab Workers* – Reply Comments to OIR, R.12-12-011 (Feb.11, 2013); *San Francisco Cab Drivers Association* – Comments to OIR, R.12-12-011 (Jan. 29, 2013); *Luxor Cab Co.* – Reply Comments to OIR, R. 12-12-011, pp.1-3 (Feb. 11, 2013).

following: [] [a] policy for entry into the business of providing taxicab transportation service.”³⁹ When enacting *Government Code* § 53075.5, the Legislature chose not to create a statutory definition of taxicab, instead requiring the cities and counties to develop their own regulatory definitions. Thus, when *Government Code* § 53075.5 is read in conjunction with *Public Utilities Code* § 5353(g), it becomes clear that the Legislature effectively directed local governments to establish the scope of the taxicab exemption to the Commission’s general jurisdiction.

Moreover, where the Legislature has specifically designated a local legislative body to perform an act, the local authority is presumed to have expertise in that area of law and the Legislature has essentially granted it power to act as the state.⁴⁰ Therefore, where the Legislature has decided to defer to local authorities, state agencies are “without power to override that deference, just as a stream can rise no higher than its source.”⁴¹

As defined by local governments, TNCs are providing taxicab transportation services. For example, under the *Los Angeles Municipal Code*, TNCs are taxicab transportation service providers because: (a) TNCs use self-propelled vehicles which are not designed to carry more than eight persons;⁴² (b) TNC vehicles are equipped with taximeters that use GPS technology in combination with a smartphone and company specific algorithms to calculate fares based on distance and time;⁴³ (c) TNC vehicles are for-hire transportation providers over the streets of Los Angeles;⁴⁴ and (d) TNC vehicles are

³⁹ *Cal. Gov. Code* § 53075.5(b)(1).

⁴⁰ *San Francisco Firefighters Local 798 v. City and County of San Francisco* (2006) 38 Cal.4th 653, 667 citing *Strumsky v. San Diego County Employees Retirement Assn.* (1974) 11 Cal.3d 28, 34 fn. 2.; *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 571 citing *Chevron U.S.A. v. Natural Res. Def. Council* (1984) 467 U.S. 837, 844–845, 104 S.Ct. 2778, 2782–83; *Mervynne v. Acker* (1961) 189 Cal.App.2d 558, 564–565. When the Legislature gives sole regulatory authority to local governments, those bodies act on behalf of the state. See *Lockyer v. City & County of San Francisco* (2004) 33 Cal.4th 1055, 1080 (if city clerk has sole authority to issue marriage licenses, power derives from state law).

⁴¹ *City of San Jose v. Dept. of Health Services* (1998) 66 Cal.App.4th 35, 42–43 (by delegating regulatory power and expressing preference that local governments decide whether to ban smoking, Legislature impliedly decreed that where local agencies have stepped in, state agencies “should step back.”)

⁴² *TPAC – Workshop Brief*, R.12-12-011, pp. 48, 81 (April 3, 2013); *Zimride – Comments on OIR*, R.12-12-011, p. 3 (Jan. 28, 2013).

⁴³ *TPAC – Workshop Brief*, *supra* at pp. 54–56, 87. *Los Angeles Muni. Code* § 71.00 defines a ‘Taximeter’ as “a device that automatically calculates at predetermined rate or rates, and indicates the charge for hire of a vehicle.”

⁴⁴ *TPAC – Workshop Brief*, *supra* at p. 59, 78.

not operating over a defined route, rather they are under the direction of the passengers.⁴⁵

TNCs meet the regulatory definition of a taxicab as that term is defined by the *Los Angeles Municipal Code*. The *Los Angeles Municipal Code* defines a taxicab as

[] [E]very automobile or motor propelled vehicle which is designed to carry not more than eight persons, excluding the driver, and either is equipped with a taximeter *or* a top light *or* has the words “taxi”, “cab” or “taxicab” displayed on the exterior of the vehicle, *and* used for the transportation of passengers for hire over the streets of this City, irrespective of whether the operations extend beyond the boundary limits of said City, at rates for distance traveled, or for zones, or for waiting, standby or traffic delay time, or for any combination of such rates, *and* not operating over a defined route but routed under the direction of such passengers or persons hiring the same.⁴⁶

The same analysis and conclusion is applicable to the TNCs pursuant to the *San Francisco Transportation Code*. The *San Francisco Transportation Code* defines a taxicab as

[A] vehicle operated pursuant to a Taxi or Ramp Taxi Medallion that is legally authorized to pick up passengers within the City with or without prearrangement, of a distinctive color or colors and which is operated at rates per mile or upon a waiting-time basis, or both, as measured by a Taximeter and which is used for the transportation of passengers for hire over and along the public streets, not over a defined route but, as to the route and destination, in accordance with and under the direction of the passenger or person hiring such vehicle.⁴⁷

ii. TNCs are Taxicabs Under the CPUC’s Case Law.

Notwithstanding the fact that the definition of a taxicab provided by local governments should be given deference in this analysis, TNCs meet the definition of a taxicab as that term has been developed by the Commission. Although the Commission has not articulated a succinct definition of a taxicab, it has established numerous factors to facilitate an assessment of whether or not a charter party carrier is

⁴⁵ *Id.*

⁴⁶ *Los Angeles Muni. Code* § 71.00 (emphasis added).

⁴⁷ *San Francisco Trans. Code Art. 1100, § 1102*. The definitions provided by Los Angeles and San Francisco are representative of the definitions of “taxicab” provided by cities and counties in the State. Other examples of the definition of taxicab include: (1) “‘Taxicab’ means a motor vehicle as the term is defined by the California Vehicle Code, used for transportation of passengers for hire, equipped with a taximeter. A taxicab shall be a vehicle designed to transport no more than eight passengers, excluding the driver” (*San Diego County Code of Reg. Ord.*, Div. 1 §21.301(c)); (2) “‘Taxicab’ means any automobile or motor-propelled vehicle of a distinctive color, of public appearance, such as in common usage in this country for taxicabs, equipped with a taximeter, used for the transportation of passengers for hire over the streets of this city, and not over a defined route, irrespective of whether or not the operations extend beyond the boundary limits of the city, at rates for distance traveled, or for waiting time, or for both, and such vehicle is routed under the direction of such passenger or person hiring the same.” (*San Mateo City Codes, tit. V* §5.75.010); (3) “‘Taxicab’ is a passenger vehicle for hire, used to transport passengers on public streets. The charge for the use of a Taxicab is determined by a taxi meter.” (*San Jose Muni. Code, tit. 25* § 5.0).

engaging in unauthorized taxicab operations. These factors are:

- The carrier uses distinctive markings such as signage, colors or top lights;⁴⁸
- The carrier employs immediate dispatch procedures to ensure that a vehicle is available on short notice;⁴⁹
- The passenger obtains a ride from the carrier with no consideration of return transportation;⁵⁰
- The carrier waits in a designated area or cruises the streets waiting for passengers;⁵¹
- The carrier does not leave his vehicle to solicit passengers;⁵²
- The carrier provides mostly short trip transportation services;⁵³
- The carrier uses vehicles equipped with a taximeter where the meter is turned on and the passenger pays the fare noted on the meter when he or she arrives at the destination;⁵⁴
- The fare structure is indicative of a taxicab transportation service;⁵⁵
- The passenger is entitled to the exclusive use of the vehicle;⁵⁶
- The carrier advertises to a population with known transportation needs, namely, taxi transportation;⁵⁷
- Drivers lease vehicles to provide transportation services.⁵⁸

In light of the foregoing factors, an analysis of the TNCs inevitably leads to the conclusion that TNCs are providing taxicab transportation services because: (a) TNCs use smartphone technology to immediately dispatch vehicles to a passenger;⁵⁹ (b) most, if not all, rides provided by TNCs are short,

⁴⁸ *Babaeian Transp., supra*, 45 CPUC 2d at 89; *In Greyhound Lines, Inc. v. Thomas Lawrence Nolen, et al.* (1971) 72 CPUC 196, WL 26548 * 5; *Trans. Investments, Inc. v. Hackett* (1983) 12 CPUC 2d 580, 593.

⁴⁹ *Babaeian Transp. Co., supra*, 45 CPUC at 89; *Trans. Investments, Inc., supra*, 12 CPUC 2d at 593.

⁵⁰ *Babaeian Transp. Co., supra*, 45 CPUC at 87.

⁵¹ *Id.*; *In Greyhound Lines, Inc., supra*, WL 26548 at 2; *Trans. Investments, Inc., supra*, 12 CPUC 2d at 593.

⁵² *In Greyhound Lines, Inc., supra*, WL 26548 at 2.

⁵³ *Babaeian Transp. Co., supra*, 45 CPUC at 87.

⁵⁴ *Id.*; *In Greyhound Lines, Inc., supra*, WL 26548 at 2; *Trans. Investments, Inc., supra*, 12 CPUC 2d at 593.

⁵⁵ *Trans. Investments, Inc., supra*, 12 CPUC 2D at 588.

⁵⁶ *Id.*

⁵⁷ *Babaeian Transp. Co., supra*, 45 CPUC at 88.

⁵⁸ *Id.*

⁵⁹ *TPAC – Workshop Brief, supra* at pp. 53, 84.

one-way trips;⁶⁰ (c) TNC drivers are told to cruise areas where there is demand for transportation services;⁶¹ (d) TNC drivers remain in their vehicles until they receive a ride request;⁶² (e) TNCs use GPS technology in conjunction with smartphones and company specific algorithms to calculate fares based on time and distance;⁶³ (f) a TNC passenger pays the amount calculated via the TNCs smartphone application at the end of a trip;⁶⁴ (g) TNCs fare structure is similar to taxi fares in that they are calculated on distance and time, along with other factors;⁶⁵ (h) passengers are entitled to exclusive use of the TNC driver's vehicle;⁶⁶ and (i) TNCs advertise to consumers of taxicab transportation services via Facebook and other on-line social media sites by stating their service are substantially cheaper than taking a taxi.⁶⁷ As further confirmation of the TNCs' status as taxi companies, third-party companies are now providing drivers with leased vehicles expressly for the purpose of operating as a TNC.⁶⁸

So, while the definitions of "taxicab" service adopted by the local governments' (to whom regulatory authority has been granted by the Legislature) should be given great deference, it is clear that TNCs also meet the definition of taxicab service, as that term has been developed by the Commission.

iii. TNCs are Exempt from the Commission's Jurisdiction Pursuant to Public Utilities Code § 5353(g).

Although the Commission is granted broad regulatory powers, it is not "entitled wholly to disregard other laws representing the legislative policy of the state[.]"⁶⁹ The Decision ignores both the statutory exemptions from its jurisdiction applicable to taxicab service, and the regulatory approach of the cities and counties charged with regulating the industry. Instead, the Decision implicitly creates a new and narrow definition of taxicab service based solely upon alleged "prearrangement." In so doing,

⁶⁰ TPAC – Opening Comments on the Issues Identified in Scoping Ruling, R.12-12-011, pp. 124-125, 134, 145-146, 1024 (June 4, 2013).

⁶¹ *Id.* at p. 1019.

⁶² *Id.* at pp. 124-125, 134, 145-146, 1024-1026.

⁶³ *Id.* at pp. 54-56, 87.

⁶⁴ *Id.* at pp. 133-136, 1026.

⁶⁵ TPAC – Workshop Brief, *supra* at pp. 54-56, 87.

⁶⁶ TPAC – Opening Comments on the Issues Identified in Scoping Ruling, *supra* at pp. 133-136, 1023-1026.

⁶⁷ See e.g. TPAC – Workshop Brief, *supra* at p. 78.

⁶⁸ See Appendix A. TNC drivers can lease a vehicle for use as an UberX vehicle for \$89.00 per day. *Id.*

⁶⁹ *Sale v. Railroad Comm.* (1940) 15 Cal.2d 612, 621.

the Commission has also contravened its own prior interpretations of taxicab service. As a result, the Decision is an act in excess of the Commission's jurisdiction. TPAC requests that this legal error be corrected on rehearing.

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IV. THE DECISION VIOLATES THE EQUAL PROTECTION CLAUSES OF THE CONSTITUTION OF THE UNITED STATES AND THE CALIFORNIA CONSTITUTION.

The Constitutions of the United States and California prohibit the unequal treatment of those engaged in the same or substantially similar type of business or activity.⁷⁰ They require that persons under like circumstances be given equal protection.⁷¹ The Decision arbitrarily selects TNC operators from the greater class of operators providing taxicab transportation services and grants them special privileges, without identifying any qualities or aspects of the TNCs operations which suggest the need for such special treatment. Therefore, the Decision violates the equal protection clause of the Constitution of the United States and the California Constitution.

a. THE COMMISSION DOES NOT HAVE A RATIONAL BASIS FOR DISCRIMINATING AGAINST TAXICAB OPERATORS.

"[T]he test for determining the validity of a statute where a claim is made that it unlawfully discriminates against any class is substantially the same under [California] prohibitions against special legislation and the equal protection clause of the federal constitution."⁷² The Equal Protection Clause of both the United States and California Constitutions require all persons subject to legislation or regulation who are in the same circumstances to be treated alike. "[W]hen it appears that an individual is being singled out for different treatment by the government, the specter of arbitrary classification is raised, and

⁷⁰ As opposed to the Due Process Clause, the Equal Protection Clause does not guarantee any minimum of protection, but merely requires that "persons similarly situated receive equal treatment." *Skinner v. Oklahomai* (1942) 316 U.S. 535; *In re Kotta* (1921) 187 C. 27, 31, 200 P. 957; but see *Bolling v. Sharpe* (1954) 347 U.S. 497.

⁷¹ *Id.* Like the Due Process Clause, the equal protection guarantee extends to persons including corporations. *U.S.C.A. Const. Amend. 14*; *West's Ann. Cal. Const. Art. 1, § 7(a)*; see also *Gulf, Colorado, & Santa Fe Ry. Co. v. Ellis* (1897) 165 U.S. 150).

⁷² *Los Angeles v. Southern Calif. Tel. Co.* (1948) 32 Cal.2d 378, 389; see *Werner v. Southern Calif. Associated Newspapers* (1950) 35 Cal.2d 121, 131.

equal protection requires the government to show a *rational basis* for the difference.”⁷³

“The first prerequisite to a meritorious claim under the equal protection clause is a showing that the state has adopted a classification that affects two or more similarly situated groups in an unequal manner.’ [Citations.] This initial inquiry is not whether persons are similarly situated for all purposes, but ‘whether they are similarly situated for purposes of the law challenged.’ [Citation.]”⁷⁴ Next, the state action is tested to determine if the challenged classification bears a rational relationship to a legitimate state purpose.⁷⁵ “Rational basis review ‘is the basic and conventional standard for reviewing economic and social welfare legislation in which there is a ‘discrimination’ or differentiation of treatment between classes or individuals.”⁷⁶ It requires that the challenged statute bear some rational relationship to a conceivable legitimate state purpose.⁷⁷ Courts have stated

It is equally well settled that a statute makes an improper and unlawful discrimination if it confers particular privileges upon a class arbitrarily selected from a larger number of persons, all of whom stand in the same relation to the privileges granted, and between whom and the persons not so favored *no reasonable distinction or substantial difference can be found justifying the inclusion of the one and the exclusion of the other.*

* * * *

The classification by the legislature ‘must not be arbitrarily made for the mere purpose of classification, but must be based upon some distinction, natural, intrinsic, or constitutional, which suggests a reason for and justifies the particular legislation. *That is to say, not only must the class itself be germane to the purpose of the law, but the individual components of the class must be characterized by some substantial qualities or attributes which suggest the need for and the propriety of the legislation.* [.]’⁷⁸

In *Looff v. City of Long Beach*, operators of amusement games challenged a city ordinance based

⁷³ *Engquist v. Oregon Dept. of Agriculture* (2008) 553 U.S. 591, 128 S.Ct. 2146, 2153. Like the United States Constitution, Article 1, Section 7(b) of the California Constitution expressly prohibits the denial of equal protection of the laws. See *Hawkins v. Superior Court* (1978) 22 Cal.3d 584, 593 [denial of post-indictment preliminary hearing violates *Cal. Const.*, Art. 1, §7(a)]; *Gay Law Students Assn. v. Pacific Tel. & Tel. Co.* (1979) 24 Cal.3d 458, 468.

⁷⁴ *Walgreen Co. v. City and County of San Francisco* (2010) 185 Cal.App.4th 424, 434 citing *Cooley v. Superior Court* (2002) 29 Cal.4th 228, 253.

⁷⁵ *People v. Hofsheier* (2006) 37 Cal.4th 1185, 1200.

⁷⁶ *Walgreen Co. v. City and County of San Francisco*, *supra*, 185 Cal.App.4th at 435.

⁷⁷ *FCC v. Beach Communications, Inc.* (1993) 508 U.S. 307, 315, 113 S.Ct. 2096.

⁷⁸ *Looff v. City of Long Beach* (1957) 153 Cal.App.2d 174, 181 citing *Martin v. Superior Court* (1924) 194 Cal. 93, 100–101 (emphasis added); see, also, *Ex Parte Sohncke* (1905) 148 Cal. 262, 267; *In re Fassett* (1937) 21 Cal.App.2d 557, 560; *Morganti v. Morganti* (1950) 99 Cal.App.2d 512, 516.

on equal protection grounds. The court affirmed the trial court's holding that the ordinance created an improper and arbitrary distinction between types of games regulated.⁷⁹ The ordinance required a permit to operate any game unless "... such game is one of the 84 games classified as being exempt from the application of the ordinance and for which no permit is required."⁸⁰ The trial court accepted evidence on the issue of whether the games at issue (knife throwing and balloon-dart games) were similar to the exempt games such as archery, baseball and basketball. In reviewing the trial court's findings, the court held:

It thus appears obvious from the evidence that the same factors develop skill in Mr. McLain's balloon-dart game, Mr. Turner's knife-throwing game and the exempt games of archery, baseball, basketball and quoits, these latter games being excluded [sic] from the application of the ordinance since they are specifically found to be 'games in which chance does not predominate in determining the result thereof'. Fundamentally these games are the same. A classification which rests upon no reasonable basis and which bears no substantial relation to a legitimate purpose to be accomplished is purely arbitrary and patently discriminatory. We find no reasonable distinction or substantial difference justifying the classification in section 4 of the ordinance.⁸¹

First, TNCs and taxicab operators are similarly situated transportation providers because: (a) both operators provide short-notice transportation to clients;⁸² (b) both services use a taximeter to calculate a fare, albeit that TNCs' use illegal and unregulated taximeters;⁸³ (c) a substantial portion of both services are short-distance rides with no expectation of a return trip;⁸⁴ (d) both services involve

⁷⁹ *Looff v. City of Long Beach*, *supra*, 153 Cal.App.2d at 183-184.

⁸⁰ *Id.* at 182.

⁸¹ *Id.* at 183-184.

⁸² Clients can order a ride from either a taxicab or TNC using an online-enabled application or, in the case of a taxicab, by calling the taxicab operator's telephone reservation line. *Luxor Cab Co. – Reply Comments to OIR*, R.12-12-011, p. 1 (Feb. 11, 2013); *Babaeian Transp. Co. v. Southern California Transit Corp.*, *supra*, 45 CPUC 2d at 88. The CPUC's own case law indicates that many taxi companies have explained under oath that a majority of a taxi operators business (80% and higher) is derived from passengers requesting service via a telephone call. *Id.* In both cases, the response time to a request is typically between 8 to 15 minutes from the request to the arrival of the driver at the passenger's location. *Id.*; Workshop Report, R.12-12-011, p.11, (May 17, 2013).

⁸³ TNCs method of metering fares uses smartphone GPS technology and company-specific algorithms to calculate a fare. *TPAC – Workshop Brief*, *supra* at pp. 54-56, 87. The TNCs metering devices act as "taximeters". For instance, the *Los Angeles Municipal Code* defines a "Taximeter" as "a device that automatically calculates at predetermined rate or rates, and indicates the charge for hire of a vehicle." *Los Angeles Muni. Code*, Art. 1, § 71.00. The use of a smartphone does not change the fact that TNCs are using a taximeter to calculate a fare.

⁸⁴ *TPAC – Opening Comments on the Issues Identified in Scoping Ruling*, *supra* at pp. 124-125, 134, 145-146, 1024.

drivers who cruise city streets or stage vehicles in high traffic areas in order to obtain fares;⁸⁵ and (e) both services compete for the same general class of customers.⁸⁶ For the purpose of the law being challenged, both TNCs and taxicab operators present the same safety and social issues to the public.

Thus, the issue is whether the legitimate objective of ensuring public safety and protecting other vital state interests provides a rational justification for removing TNCs from the greater classification of operators providing taxicab transportation services (taxicabs), when the greater class is already subject to a comprehensive regulatory scheme created specifically to protect the public health, safety, and welfare. In fact, the Decision effectively *removes* the TNCs from the comprehensive taxicab regulatory structure set in place by the Legislature pursuant to *Government Code* § 53075.5. This is improper and discriminatory rulemaking.

As an example, *Government Code* § 53075.5(b)(1)(A) requires that every taxicab driver obtain a permit provided by the county or the city before he or she can engage in taxicab transportation services. Cities and counties throughout the state have enacted extensive permitting requirements that are applicable to every taxicab driver. The *San Francisco Transportation Code* states “[n]o person, business, firm, partnership, association or corporation shall drive ... any Motor Vehicle For Hire within the City ... without a permit issued by the SFMTA authorizing such driving...in accordance with this Article.”⁸⁷ Thus, to obtain a permit to operate a taxicab in San Francisco each driver must: (a) provide his or her fingerprints; (b) take and pass a written exam; (c) take and pass a physical examination if required by the SFMTA; (d) certify that the applicant has successfully completed a SFMTA-approved driver training course; (e) be a legal resident of the United States; (f) be free of any disease, condition, infirmity, or addiction that might render the applicant unable to safely operate a motor vehicle or that otherwise poses a risk to the public health and safety; and (g) have the physical capacity to operate a

⁸⁵ *Id.* at p. 1019.

⁸⁶ *See e.g. TPAC – Workshop Brief, supra* at p. 78.

⁸⁷ *San Francisco, Transp. Code, Art. 1100, § 1105(a)(1)*. The *Los Angeles Municipal Code* states “[n]o person shall drive or operate a taxicab as defined in Section 71.00 without first having obtained a taxicab driver permit from the Board.” *Los Angeles Muni. Code, Art. 1, § 71.03(c)*.

motor vehicle for at least four hours per day.⁸⁸ The regulations enacted by the Decision do not require TNC drivers to meet any of these basic requirements for providing taxicab transportation services.⁸⁹

Moreover, other regulatory requirements that are placed on taxicab operators from which the Commission attempts to give TNCs special dispensation, include: (a) taxicab operators are limited in the types of charges and the maximum rates that can be charged to a passenger;⁹⁰ (b) every taxicab operator is required to obtain a business license to operate in the city;⁹¹ (c) each taxicab driver is required to submit to drug testing before they begin driving, and periodically thereafter;⁹² (d) taxicab operators are required to indemnify the city for its operations;⁹³ (e) every taxicab vehicle must be permitted by the city or county;⁹⁴ (f) every taximeter must be certified by the Department of Weights and Measures;⁹⁵ (g) fares can only be calculated in a manner approved by the city;⁹⁶ (h) fare calculations cannot be changed without approval;⁹⁷ (i) taxicab companies must offer twenty-four hour dispatch services;⁹⁸ (j) taxicab companies must meet local governmental clean air vehicle requirements;⁹⁹ (k) each county and city controls the number of taxicabs on their streets;¹⁰⁰ and (l) each taxicab operator is required to service all areas of a city or county.¹⁰¹ Under the Decision, TNCs are not required to meet *any* of these requirements.¹⁰²

When analyzing an equal protection claim, courts must

“[] undertake ‘a serious and genuine judicial inquiry into the correspondence between the classification and the legislative goals’ [citation] by inquiring whether ‘the statutory classifications are rationally related to the ‘realistically conceivable legislative purpose [s]’ [citation]’ ... and ... by declining to ‘invent[]

⁸⁸ *San Francisco, Transp. Code, Art.1100, § 1103(c).*

⁸⁹ *See* Decision at pp. 26-33.

⁹⁰ *Los Angeles Muni. Code, Art. 1, § 71.25(a); San Francisco Trans. Code Art. 1100, § 1124.*

⁹¹ *Los Angeles Muni. Code, Art. 1, § 71.02.3; San Francisco Trans. Code Art. 1100, §§ 1103, 1114.*

⁹² *San Francisco Trans. Code Art. 1100, §§ 1102, 1103(c)(1)(G), 1104(c)(1), 1106(q)(1), 1108(g).*

⁹³ *See e.g. Santa Monica Ordinance No. 2333 § 12 (Nov. 23, 2010).*

⁹⁴ *Los Angeles Muni. Code, Art. 1, §§ 71.02, 71.05; San Francisco Trans. Code Art. 1100, § 1108(a)(1)-(3).*

⁹⁵ *Los Angeles Muni. Code, Art. 1, § 71.22(a); San Francisco Trans. Code Art. 1100, § 1124(a) and (b).*

⁹⁶ *Los Angeles Muni. Code, Art. 1, § 71.22(c); San Francisco Trans. Code Art. 1100, § 1124(a) and (b).*

⁹⁷ *Los Angeles Muni. Code, Art. 1, § 71.24; San Francisco Trans. Code Art. 1100, § 1124(a).*

⁹⁸ *San Francisco Trans. Code Art. 1100, § 1107(b).*

⁹⁹ *Los Angeles Taxicab Rules and Regs., § 401(b) and (e); San Francisco Trans. Code Art. 1100, § 1124(c)(3).*

¹⁰⁰ *Los Angeles Muni. Code, Art. 1, § 71.02(b); San Francisco Trans. Code Art. 1100, § 1115.*

¹⁰¹ *Los Angeles Muni. Code, Art. 1, § 71.25(a); San Francisco Trans. Code Art. 1100, § 1124.*

¹⁰² For a more extensive list please see Appendix B.

fictitious purposes that could not have been within the contemplation of the Legislature....” [Citation.]’ Statutory distinctions resting on “speculative possibility” do not satisfy the requirements of equal protection.¹⁰³

The Commission asserts that the purpose of the Decision is to protect the public safety.¹⁰⁴ How is the public safety protected by subjecting the TNCs to a *less* comprehensive regulatory structure? In fact, the Decision does not provide the comprehensive safety protection that the existing taxi regulations provide. The distinction between those who are subject to the legislation and those who are exempted must be rational. Courts have held that:

The rationale must be ‘plausible’ [citation] and the factual basis for that rationale must be reasonably conceivable [citation]. And ‘even in the ordinary equal protection case calling for the most deferential of standards, [courts must ascertain] the relation between the classification adopted and the object to be attained. The search for the link between classification and objective gives substance to the Equal Protection Clause.’ [Citation].”¹⁰⁵

There is no rational basis for treating TNCs differently from taxicabs in order to protect the public safety. The Decision unlawfully discriminates against taxicab operators by allowing the TNCs (which are competing for the same passenger) to avoid comprehensive regulations applicable to other taxicab transportation services.

b. THE DECISION VIOLATES ARTICLE 4, SECTION 16(B) OF THE CALIFORNIA CONSTITUTION.

Article 4, Section 16 of the *California Constitution* states “(a) [a]ll laws of a general nature have uniform operation; (b) [a] local or special statute is invalid in any case if a general statute can be made applicable.”¹⁰⁶ Legislation will be considered “special” if “it applies only to particular members of a

¹⁰³ *Walgreen Co. v. City and County of San Francisco*, *supra*, 185 Cal.App.4th at 435.

¹⁰⁴ Decision at pp. 3, 64.

¹⁰⁵ *Walgreen Co. v. City and County of San Francisco*, *supra*, 185 Cal.App.4th at 435 (citations omitted); *Stout v. Democratic County Central Com.* (1952) 40 Cal.2d 91, 95–96; *Hollman v. Warren* (1948) 32 Cal.2d 351, 357.

¹⁰⁶ See *Serve Yourself Gas etc. Assn. v. Brock* (1952) 39 Cal.2d 813, 820–821. Along with the equal protection clause contained in *Article 1, Section 7(b)* of the *California Constitution*, there are a number of other provisions within the *California Constitution* that require uniformity in legislation. These provisions “[] go further than the Fourteenth Amendment, particularly in invalidating legislation where the basis for classification is wholly unreasonable, although the person raising the challenge does not show direct denial of equal protection as to himself or herself.” 8 *Witkin, Summary 10th* (2005) Const. Law, § 705, p. 81.

class, in contrast to ‘general’ legislation, which applies uniformly to all members of a class.”¹⁰⁷ The distinction between a general and a special law within the meaning of the *California Constitution* has been stated as follows:

‘(A law) is general * * * when it applies equally to all persons embraced in a class founded upon some natural or intrinsic or constitutional distinction * * * (It is a special law if it confers particular privileges, or imposes peculiar disabilities or burdensome conditions in the exercise of a common right, upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law.’¹⁰⁸

Thus, the discussion of whether a statute is general or special is dependent on an analysis of the reasonableness of the classification that is used to “pull out certain members from the ‘general’ group for ‘special’ treatment.”¹⁰⁹ In the instant context, the Decision violates this section because: (a) the statewide taxicab regulatory scheme enacted pursuant to *Government Code* § 53075.5 are general laws; (b) there are no substantial qualities or attributes of TNCs which suggest the need for the regulations enacted by the Decision; and (c) the Decision enacts a special law allowing the TNCs to avoid California’s comprehensive taxicab regulatory system.

First, every city or county is required to enact comprehensive rules and regulations to ensure the public welfare and safety pursuant to *Government Code* § 57075.5. Courts have held that when the Legislature gives sole regulatory authority to local governments, those bodies act on behalf of the state.¹¹⁰ Therefore, the taxicab regulatory structure enacted by cities and counties are part of an overall statewide statutory scheme.¹¹¹ *Government Code* § 53075.5 and all resulting city or county regulations enacted pursuant thereto, are general laws applicable to any person that seeks to provide taxicab transportation services.

¹⁰⁷ *Id.*; *Keenan v. S.F. Unified School Dist.* (1950) 34 Cal.2d 708, 713; *White v. Church*, (1986) 185 Cal.App.3d 627, 632; *City of Malibu v. Cal. Costal Com’n* (2004) 121 Cal.App.4th 989, 993-994.

¹⁰⁸ *Serve Yourself Gasoline Stations Ass’n v. Brock* (1952) 39 Cal.2d 813, 820 (citations omitted).

¹⁰⁹ *City of Malibu v. Cal. Costal Com’n* (2004) 121 Cal.App.4th 989, 994.

¹¹⁰ *See Lockyer v. City & County of San Francisco*, *supra*, 33 Cal.4th at 1080 (if city clerk has sole authority to issue marriage licenses, power derives from state law).

¹¹¹ *See Golden State Transit Corp. v. City of Los Angeles* (1983) 563 F.Supp. 169, affirmed 726 F.2d 1430, certiorari denied 105 S.Ct. 1865, 471 U.S. 1003 (The city’s regulation of taxicab businesses was within the “state action” exemption from Sherman Act liability, since the city’s regulatory scheme was part of an overall statutory scheme under California law to displace competition with regulation in the taxicab industry).

Next, there are no differences between the services provided by TNCs and taxicabs. The Decision defines a TNC as “an organization, whether a corporation, partnership, sole proprietor, or other form, operating in California that provides *prearranged* transportation services for compensation using an *online-enabled app or platform* to connect passengers with drivers using their *personal vehicles*.”¹¹² But, this definition does not offer any reasonable distinctions or substantial difference to justify the special treatment of TNCs. As stated above, the term prearranged is not dispositive of whether a TNC is providing taxicab transportation services. The fact that TNCs use online enabled apps to obtain customers is not a basis upon which to distinguish between taxicabs and TNCs.¹¹³ A majority of taxicab customers also arrange travel via a smartphone application or using the taxi operator’s reservation telephone line.¹¹⁴ Also, the use by TNC drivers of their “personal vehicles” does not remove TNCs from the definition of a taxicab, since the law defines these “personal” vehicles as “commercial.” This is nothing more than a false distinction. *Vehicle Code* § 260 states “[a] ‘commercial vehicle’ is a motor vehicle ... maintained for the transportation of persons for hire, compensation, or profit [.]” Pursuant to state law, just like taxicab drivers, TCPs, and all other licensed carriers, TNC drivers are operating a commercial vehicle the moment they begin providing transportation for compensation and are required to ensure that the vehicle adheres to regulatory operational requirements (e.g. inspections, etc.). The Decision does not provide a reasonable distinction or a substantial difference between the services offered by TNCs and taxicab transportation services. TNCs and taxicabs provide the same service to the same customers.¹¹⁵

Taxicab operations are required to invest hundreds of thousands of dollars into their permits, purchasing vehicles, making mandatory modifications to the vehicles, and operations. TNCs are granted

¹¹² Decision at pp. 24, 65 (emphasis added).

¹¹³ In support of this, the Decision states, “[w]e deem it inconsistent with our grant of authority over transportation services to be barred from regulating a transportation service provided by TNCs based on the means of communication used to arrange the service.” Decision at pp. 14.

¹¹⁴ *Babaeian Transp. Co. v. Southern California Transit Corp.*, *supra*, 45 CPUC 2d at 87; *Luxor Cab Co. – Reply Comments to OIR*, *supra* at p. 1.

¹¹⁵ See e.g. *TPAC – Workshop Brief*, *supra*, at p. 78.

the privilege of avoiding taxicab regulatory requirements. The Decision constitutes a “special law” intended only to grant TNCS the “special privilege” of avoiding the comprehensive taxicab regulatory structure mandated by the Legislature through *Government Code* § 53075.5. The regulations enacted by the Decision do not place the same regulatory burden on the TNCs as that placed on taxicabs.¹¹⁶ Moreover, TNCs avoid the high costs associated with compliance with taxi regulations.

Hence, the regulations enacted by the Decision are special laws in that they remove TNCs from the taxicab regulatory scheme without justification. A “special law” is invalid where a general statute can be made applicable.¹¹⁷ Here, the taxicab regulatory structure is a general set of laws that are applicable to any operator providing taxicab transportation services. The Decision gives no basis for concluding that TNCs are *not* functionally equivalent to taxicabs. Therefore, the Decision violates *Article 4, Section 16* of the *California Constitution*.

The Decision lacks uniformity, grants a special privilege and denies equal protection of the laws to those who are currently regulated as taxicab service providers. TPAC requests that this legal error be corrected by the Commission withdrawing its Decision and reopening hearings to make findings consistent with the requirements of the Constitution of the United States and the California Constitution.

V. THE DECISION DOES NOT MEET THE REQUIREMENTS OF THE CALIFORNIA PUBLIC UTILITIES CODE.

In several important respects, the Decision impermissibly conflicts with the *Public Utilities Code*. Although the Commission is a regulatory body created by the California Constitution, “it has only such powers as it derives from the Constitution and from the Legislature.”¹¹⁸ Accordingly, the Legislature enacted *Public Utilities Code* § 5381 which states:

To the extent that such is not inconsistent with the provisions of this chapter, the commission may supervise and regulate every charter-party carrier of passengers in the State and may do all things, whether specifically designated in this part, or

¹¹⁶ See *supra*, § IV(a) pp. 16-18.

¹¹⁷ *Serve Yourself Gas etc. Assn.*, *supra*, 39 Cal.2d at 820–821; *Keenan*, *supra*, 34 Cal.2d at 713; *White*, *supra*, 185 Cal.App.3d at 632; *City of Malibu v. Cal. Coastal Com’n*, (2004) 121 Cal.App.4th 989, 993-994.

¹¹⁸ *Cal.Const.*, Art. XII, s 23; *Television Transmission v. Public Util.Com.* (1959) 47 Cal.2d 82; *Northwestern Pac. R.R. Co. v. Superior Ct.* (1949) 34 Cal.2d 454

in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.¹¹⁹

The Legislature further enacted *Public Utilities Code* § 5382, which states:

To the extent that such are not inconsistent with the provisions of this chapter, all general orders, rules and regulations, applicable to the operations of carriers of passengers under authority of certificates of public convenience and necessity issued pursuant to the provisions of Article 2 (commencing at Section 1031), Chapter 5, Part 1, Division 1 of this code¹, unless otherwise ordered by the commission shall apply to charter-party carriers of passengers.¹²⁰

Yet, in a manner wholly inconsistent with the *Public Utilities Code*, the Decision would grant TNCs exemptions from statutes expressly applicable to *all* charter party carriers under the Act.

The Decision requires the TNCs to obtain a permit from the Commission, but TNC *drivers* are unjustifiably exempt from the same statutory requirement.¹²¹ The Commission is required to issue “permits to persons, who are otherwise qualified, whose passengers operations fall into the following categories: [] *Carriers* using only vehicles under 15-passenger seating capacity.”¹²² *Public Utilities Code* § 5360 defines a charter party carrier as “[*every* person engaged in the transportation of persons by motor vehicle for compensation...”¹²³ Unless a charter-party driver is an employee of a carrier (not operating for “themselves”), that driver is *required* to obtain authority to operate as a charter party carrier.¹²⁴ This is consistent with *Public Utilities Code* § 5360 and 5384. TNC drivers are independent, non-employee carriers who must obtain a permit from the Commission pursuant to *Public Utilities Code* § 5371 because: (a) TNC drivers *are* providing transportation services for

¹¹⁹ Emphasis added.

¹²⁰ Emphasis added.

¹²¹ Decision at p. 72.

¹²² *Cal. Pub. Util. Code* § 5384(b) (emphasis added).

¹²³ Emphasis added.

¹²⁴ For instance, General Order (“GO”) 157-D, § 5.03 states: “[e]very driver of a vehicle shall be the permit/certificate holder or under the complete supervision, direction and control of the operating carrier and shall be: (a) [a]n employee of the permit/certificate holder; or, (b) [a]n employee of sub-carrier; or, (c) [a]n independent owner-driver who holds charter-party carrier authority and is operating as a sub-carrier.” Further, GO 157-D, § 3.04 states “[a] carrier shall not use the services of another carrier (sub-carrier) that provides the vehicle and the driver, unless the second carrier holds Commission authority as a charter-party carrier.” GO 157-D is consistent with *Public Utilities Code* § 5360 because an employee driver does not need to be independently permitted by the Commission.

compensation;¹²⁵ and (b) TNC drivers are not employees of the TNCs.¹²⁶ Yet, the Decision exempts TNC drivers from *Public Utilities Code* § 5371, while making no findings of fact or conclusions of law justifying such an exemption. In this regard, the Decision directly conflicts with the *Public Utilities Code*.¹²⁷

The Decision also violates the insurance coverage requirements of *Public Utilities Code* § 5391, which states:

The commission shall, in granting permits or a certificate pursuant to this chapter, *require the charter-party carrier of passengers to procure, and to continue in effect during the life of the permit or certificate, adequate protection against liability imposed by law upon the charter-party carrier of passengers* for the payment of damages for personal bodily injuries, including death resulting therefrom, protection against a total liability of the charter-party carrier of passengers on account of bodily injuries to, or death of, more than one person as a result of any one accident, and protection against damage or destruction of property.¹²⁸

With regard to insurance coverage, the Decision makes a distinction between TNCs (e.g. Lyft and SideCar) and individuals that drive for the TNCs (“Drivers”). The Decision only requires the TNCs to provide insurance coverage when Drivers are “providing TNC services,” but the Decision did not define when a Driver is in-service.¹²⁹ On the other hand, the Decision does not require the Drivers to obtain an

¹²⁵ It is clear from the record that TNC drivers are providing transportation services for compensation. *See TPAC – Opening Comments on the Issues Identified in Scoping Ruling, supra* at pp. 1010-1026. Moreover, the TNCs have promoted the fact that TNC drivers will earn money providing transportation services to the public. *See TPAC – Workshop Brief* at pp. 48, 79.

¹²⁶ Throughout the instant proceedings, the TNCs have maintained that TNC drivers are not employees. *See e.g. Zimride – Reply Comments*, R.12-12-011, p. 2 (Feb. 11, 2013) (“Drivers using peer-to-peer platforms are not employees of the platform...”).

¹²⁷ By not requiring the TNC drivers to obtain a permit from the CPUC, the Decision exempts TNC drivers from other requirements of the law, including those stated in *Cal. Pub. Util. Code* § 5374. However, *if* the TNCs are determined to be within the Commission’s jurisdiction then the TNC drivers are equivalent to TCP holders. Yet, TNC drivers are exempted from the requirements of GO 157-D due to the fact that TNC drivers do not have to be permitted per the Decision. For instance, the Decision does not require TNC drivers to register their vehicles with the Commission. Pursuant to GO 157-D § 4.01, “[e]very carrier shall maintain, on file with the Commission, an equipment list of all vehicles (owned or lease) in use under each certificate and permit.” GO 157-D, § 4.01 goes on to state that “[t]he information for each vehicle shall include the manufacturer, model year, vehicle identification number (V.I.N.), seating capacity (including driver), description of body type or model designation, whether the vehicle is leased or owned, handicap accessible status, and its license plate number.”

¹²⁸ Emphasis added.

¹²⁹ The Decision states “TNCs shall maintain commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim.” Decision at p. 26. Thus, Decision fails to state whether a TNC driver is considered to be providing TNC services when en route to picking up a passenger, when returning from dropping off a passenger, or when a driver is cruising an area while awaiting a ride request.

insurance policy consistent with *Public Utilities Code* § 5391,¹³⁰ allowing them to maintain their personal auto insurance policies.¹³¹ Given these two conditions, there are a number of scenarios where it appears that the TNCs' mandated insurance will be inapplicable to TNC-related occurrences. The TNCs' insurance policy would not appear to cover an incident involving a Driver *en route* to pick up a passenger since the Driver was not technically "providing TNC services" at the time of the accident. Conversely, the Driver's personal auto insurance policy would likely decline coverage because the Driver's vehicle was being used for commercial related purposes.¹³² By not clarifying the scope of the TNCs' insurance requirements, the Decision directly conflicts with the *Public Utilities Code*.¹³³

The Decision also conflicts with the *Public Utilities Code* by requiring TNCs to employ only a "zero tolerance intoxicating substance policy."¹³⁴ *Public Utilities Code* § 1032.1(a) states "[t]he commission shall not issue or transfer a certificate of public convenience and necessity pursuant to this article unless the applicant provides for a mandatory controlled substance and alcohol testing certification program as adopted by the commission." Further, *Public Utilities Code* § 5374(a)(1)(I) states "[t]he commission shall not issue or renew a permit or certificate pursuant to this chapter unless the applicant meets all of the following requirements: [] [i]t provides for a mandatory controlled substance and alcohol testing certification program as adopted by the commission pursuant to Section 1032.1." When the Commission enacted GO 157-D, it put in place a controlled substance and alcohol testing certification program that meets the requirements of *Public Utilities Code* §§ 1032.1 and 5374.¹³⁵ GO 157-D § 10.01 states "[a]ll charter-party carrier applicants (new and renewal) who propose to employ any driver who will operate a vehicle having a seating capacity of 15 persons or less ... must

¹³⁰ Decision at p. 26.

¹³¹ *Id.*

¹³² Typically, for taxicab operators and other charter party carriers, their commercial insurance policy is always in effect. Thus, no matter when (on-duty vs. off-duty) an accident involving a charter-party carrier occurs, there is always sufficient insurance to protect third parties.

¹³³ Commissioner Peavy stated at the All Party Meeting held on September 3, 2013, that the Decision would be revised, mandating that the TNCs' insurance policy was to provide "primary" coverage. However, the Decision does not include a statement that the TNCs' insurance must be primary, another area where compliance with *Cal. Pub. Util. Code* § 5391 is questionable.

¹³⁴ Decision at p. 26.

¹³⁵ GO 157-D § 10.01 et seq.

provide for a mandatory controlled substance and alcohol testing certification program for those drivers... .” GO 157-D, § 10.01 et seq. sets out the requirements of each charter party carrier to create and implement a testing program. Yet, the Decision now *exempts* the TNCs from the mandatory drug testing requirements of the *Public Utilities Code*, again without providing any basis for doing so. In this respect, the Decision also unlawfully conflicts with the *Public Utilities Code*.

///

Furthermore, the Decision does not require the TNCs to adhere to *Public Utilities Code* § 5385.6, which states

(a) No charter-party carrier shall operate a limousine as defined by Section 5371.4 unless the limousine is equipped with the special license plates issued and distributed by the Department of Motor Vehicles pursuant to Section 5011.5 of the Vehicle Code.

Public Utilities Code § 5371.4 defines a limousine as

(i) ... any sedan or sport utility vehicle, of either standard or extended length, with a seating capacity of not more than 10 passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state.

The Decision does not require the TNC drivers to obtain livery plates as mandated by *Public Utilities Code* § 5385.6.¹³⁶ Instead, TNCs are permitted to use the removable trade dress of the TNCs (e.g. pink mustaches, etc.).¹³⁷ This conflicts with the *Public Utilities Code*. Pursuant to *Public Utilities Code* § 5371.4 TNC drivers are operating limousines. The evidentiary record contains examples of the TNCs’ vehicle requirements, which all meet the definition of a limousine under that section.¹³⁸ Therefore, under *Public Utilities Code* § 5385.6, TNC drivers are *required* to register with the Department of Motor Vehicles in order to obtain a special license plate.¹³⁹

Another issue is presented by *Public Utilities Code* § 5401 which requires that all charter party

¹³⁶ Decision at p. 31.

¹³⁷ *Id.*

¹³⁸ *TPAC* – Workshop Brief, *supra* at pp. 48, 81; *Zimride* – Comments on OIR, *supra* at p. 3; *TPAC* – Opening Comments on the Issues Identified in Scoping Ruling, *supra* at pp. 1010-1026.

¹³⁹ This obligation is reinforced in the *Vehicle Code* which states “[e]very limousine operated by a charter-party carrier, as defined by Section 5371.4 of the Public Utilities Code, shall display a special identification license plate issued pursuant to Section 5385.6 of that code.” *Cal. Veh. Code* § 5011.5.

carriers compute their charges solely on a “vehicle mileage or time of use basis, or on a combination thereof.” TPAC has offered evidence that shows that the TNCs use other factors, such as demand, to calculate fares.¹⁴⁰ For the purposes of consumer protection, the Commission should ensure that the manner in which TNCs calculate their charges meets with the requirements of the *Public Utilities Code*. Yet, the Decision is silent on this issue.

The exemptions granted to the TNCs by the Decision are unlawful. Notwithstanding TPAC’s arguments regarding taxicab transportation services, at a minimum, TPAC requests that the Commission withdraw the Decision and reopen hearings on the issues identified herein in order to correct these legal errors.

VI. CONCLUSION.

Based on the above, the Commission should grant TPAC’s application for rehearing. The Commission should withdraw the Decision and conduct further evidentiary hearings consistent with issues presented above in order to expeditiously correct the legal errors identified herein.

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¹⁴⁰ See e.g. TPAC – Comments to OIR, R.12-12-011, pp. 9-10 (Feb. 4, 2013).

APPENDIX A

UBER-X/ UBER BLACK !! DAILY LEASE HYBRIDS \$85.00/FULL DAY LIMOUSINE (downtown / civic / van ness)

WE ARE LEASING 10 AVAILABLE TOYOTA PRIUSES AND HONDAS ALL HYBRIDS

ALSO WE HAVE LINCOLN TOWN CAR AND BMW 745LI FOR UBER BLACK AVAILABLE NOW FOR \$650/WEEK (ACTIVE UBER BLACK DRIVERS ONLY)

THAT APPLY ONLY FOR HYBRIDS :

WE ARE LEASING EACH VEHICLE FOR \$89.00/DAY

ALL OUR CARS IS ACTIVE AT UBER AND READY TO WORK

WE ARE RESPONSIBLE FOR REPAIRS AND MAINTENANCE

AIRPORT FEES WILL BE CHARGE \$3.65 PER AIRPORT

option #1. daily lease \$85.00

option #2. montly lease for \$2650

option #3. 50/50 after Uber %20

option #4. 12/hours shift 50/50 or \$75 per shift (from 4.30am- 4.30pm or 4.30pm-4.30am)

ALSO WE ARE LOOKING HOTEL DRIVERS!!!!

If you want to become an Uber driver, you have to do 20 minutes orientation on September 21/2013
Please call to sign up for orientation at 415 724-6190

YOUR RESPONSIBILITIES:

1. KEEPING CAR CLEAN

2. AIRPORT FEES \$ 3.65 /PER AIRPORT RUN

3. GAS

IF YOU INTERESTED PLEASE CALL US AT 415-724-6190 ASK FOR AGABIE

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APPENDIX B

REGULATORY COMPARISON OF TAXICAB V. TNC

			<p><i>Los Angeles Municipal Code, Chapter VII Taxicab Rules and Regulations of the Board of Taxicab Commissioner, City of Los Angeles, (B.O. No. 069 - 12/20/12)</i></p> <p><i>Transportation, Article 1, Public Transportation (Art. 1, Title, Amended by Ord. No. 161,249, Eff. 6/20/86.)</i></p> <p><i>San Francisco Transportation Code, Article 1100: Regulation of Motor Vehicles For Hire</i></p>		
<u>ISSUE</u>	<u>TAXICAB</u>	<u>TNC</u>			
Passenger Bill of Rights	Yes	No			
Types of Charges/ Maximum Rates	Yes	No	§429 at 16	§71.25(a) at 24	§§1124(a)-(f) at 62-64
Business License Required for operator	Yes	No		§71.02.3 at 8	§1103(h)(1)(C) at 11; §1103(h)(2)(a) at 13; §1114(f)(5) at 47
Taxicab Driver Permit Required	Yes	No	§600 at 25	§§71.06 at 11-12; §71.03(C) at 8	§§1105-06 at 15-18; §1108(a)(1), (2) and (3) at 26
Driver Criminal Background Check Required	Yes	By TNC		§71.06 at 11	§1103(a) at 9
Driver Training Required (32 hours at approved school)	Yes	Training or "mentorin g" by TNC			§1102 at 4; §1103(c)(1)(D) at 9; §1103(c)(3)(B) at 11
Driver Drug Testing Required	Yes	No testing, "zero tolerance"	§223 at 9; §601(c) at 25; §609 at 26; §736 at 33		§1102 at 4; §1103(c)(1)(G) at 10; §1103(c)(2)(I) at 11; §1104(c)(1) at 14; §1106(q)(1) at 23; §1108(g) at 30
Taxicab Parking Restrictions by City	Yes	No	§128 at 6; §129 at 6; §744 at 34; §746 at 34;	§71.01.2 at 5; §71.18(a) at 22	§1105(7) at 16
Trip Logs Required of Driver	Yes	No	§798 at 38;	§§71.27(a)(1-9) at 25	§1108(e)(15)(A) at 28
Lost Property Reclaim Process	Yes	No	§772 at 36		§§1106h(1)-(4) at 20; §1106(r)(3) at 23; §1107(n)(3) at 25; §1113(d)(2) at 37
Commercial Liability Insurance Required	Yes	Unknown Coverage	§207 at 7	§71.14(a) at 18; §71.14(c) at 19	§1101(1)(3)(b) at 2
Taxi Driver Identification/ Badges Visible	Yes	No	§780 at 37	§71.01.1(d) at 5; §71.06 at 11; §71.09(e) at 15	§1108(a)(2) at 26; §1108(a)(3) at 26; §1108(e)(22) at 29; §1114(b)(2) at 42

City Indemnity/ Hold Harmless Required	Yes	No			
City Must Be Named or Secondary Insured	Yes	No			
Vehicle Inspection Required	Yes	By TNC	§432 at 16	§71.22(b) at 23	§1113(s)(1) at 40
Vehicle Permit Required	Yes	No	§503 at 20	§§71.02(a)-(c) at 5-6; §71.05(a) at 9	§§1108(a)(1)-(3) at 26
Exterior Signage + Vehicle Identification Required	Yes	Magnetic, Easily Removed	§422 at 16	§71.00 at 4; §71.09(e) at 14	
Rates Required to be Posted	Yes	No	§405 at 14	§71.20(a) at 22	§1113(d)(1) at 36-37
Uniform Exterior Color Required	Yes	No	§422 at 16	§71.16(a) at 20	§1102 at 3
Interior Postings Required	Yes	No	§§405-407 at 10; §§409-10 at 14; §413 at 14; §§418-19 at 15	§71.22(e) at 23	§§1113(d)(1)-(3) at 36-37
Taxi Meter Certified by Weights & Measures	Yes	No	§429 at 16; §§725(a) and (b) at 32	§71.22(a) at 23	§§1124(a) and (b) at 62
Fares Calculated By Approved Algorithm	Yes	No	§§726-728 at 32	§71.22(c) at 23	§§1124(a) and (b) at 62
Fare Calculations Cannot Be Changed Without Approval	Yes	No	§§725(a) and (b), and §§726-728 at 32	§71.24 at 23-24	§1124(a) at 62
Top Light Required	Yes	No	§403 at 14	§71.00 at 4	§§1113(j)(2)(A) and (B) at 38
Vehicle Modified for Driver Protection	Yes	No	§407 at 14		§1113(g) at 37
Taxicab Vehicle Inspection Required (see line item 17 above)	Yes	No			
Standard for Conditions of Vehicle	Yes	By TNC	§§401(a)-(f) at 13; §§433-442 at 16-17; §724 at 32; §447 at 17-18; §448 at 18		§§1108(d)(4) at 27; §§1108(e)(26) and (27) at 29; §§1113(0)(1), (2), (3) and (4) at 40
Background Checks for Owners Required	Yes	No	§606 at 25	§71.01.2 at 5	§1103(a) at 9
Fleet Permit Process Requirements	Yes	No	§510 @ 21	§§71.05(b)(2), (3), and (4) at 9	§1103(h)(2) at 13
Driver Record Keeping Required	Yes	No	§313 at 11; §451 at 18		§1109(c)(5) at 32
Vehicle/ Fleet Record Keeping Required	Yes	No	§305 at 10; §306 at 10; §451 at 18		
Cannot Refuse Paratransit	Yes	No	§768 at 36		§1108(e)(1) at 27; §1108(e)(36) at 30; §1110(a)(1) at 34
Accessible Taxicabs Required	Yes	No	§§401(a) and (d) at 13		§1110(a)(3) at 64
Minimum Office Requirements/ Office Hours	Yes	No			§1106(d) at 19

Fleet Manager Required	Yes	No			§1106(g)(1) at 19
24 Hr Dispatch Service Required	Yes	No			§1107(b) at 24
Complaint Resolution Process Required/ 311 phone line	Yes	No			§1106(f) at 19; §1113(d)(2) at 37
General Liability Insurance Required	Yes	No	§207 at 7	§§71.14(a)-(g) at 18-19	1106(t) at 23; §1113 (s)(1)(c) at 40
Company Responsible for Actions of Driver	Yes	Not Addressed - TNCs say "no"			
Clean Air Vehicle Requirements	Yes	No	§§401(b) and (e) at 13		§1124(c)(3) at 63
City May Remove an Unsafe Taxi from Service	Yes	No	§111 at 4		§1108(e)(25) at 29
Fare Refusals Limited to Certain Criteria	Yes	No	§208 at 7		§§1108(e)(1)-(4) at 27
City May Set Limits on Number of For Hire Vehicles	Yes	No		§71.02(b) at 6	§§1115 at 47-48
Driver Must Take Most Direct Route	Yes	No		§71.23 at 23	§1103(f)(2) at 12
City May Set Minimum Service Requirements	Yes	No			
Accident Reporting to Regulators	Yes	No			§1106(o)(1) at 22
Drivers Must Demonstrate Proficient Knowledge of Streets	Yes	No	§611 at 26; §612 at 26		§1103(e) at 12
Airport Number of Vehicles Limited	Yes	No			§1115 at 47-48
Designated Waiting Areas - Taxi Stands	Yes	No	§128 at 6; 129 at 6	§71.18(a)-(c) at 21-22	
Requirement to Serve Any Customer	Yes	No			§1108(e)(1) at 27
Requirement to Serve All Areas of the City	Yes	No			§1108(e)(1) at 27