

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 5, 2021

Stephanie Kuhlman
Uber Technologies, Inc.
1455 Market Street
San Francisco, CA 94103

Subject: TNC Access for All Advice Letter AL 7A

Dear Stephanie Kuhlman,

Pursuant to Decision D.20-03-007, the Consumer Protection and Enforcement Division (CPED) of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records. This status certificate indicates:

Advice Letter Number
Name of Filer
CPUC Corporate ID number of Filer
Subject of AL Filing
Date Filed
Disposition of Filing (Approved, Rejected, Withdrawn, etc.)
Amount of Approved Offsets by County
Effective Date of Filing

CPED received timely protests against AL 7 from San Francisco (SFMTA, SFCTA, SFMOD) and Disability Advocates on 12-10-2020. Uber's reply to the protests was received on 12-17-2020.

Please review your advice letter filing with the information contained in the attached AL status certificate and the Appendix for a description of the AL, protest, and staff's disposition. If you have any questions on this matter please contact CPED Staff via email at tncaccess@cpuc.ca.gov.

Sincerely,

Douglas Ito

Director, Consumer Protection and Enforcement Division

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**Advice Letter Status Certificate**

**Status of Advice Letter 7A
As of November 5, 2021**

Uber Technologies, Inc.
TCP 38150
Attention: Stephanie Kuhlman
1455 Market Street
San Francisco, CA 94103

Advice Letter Subject: **Exemption for Q4 2020-Q3 2021 in compliance with
Decision 20-03-007**

Division Assigned: Consumer Protection and Enforcement

Date Filed: 11-20-2020

Disposition: **Approved**
Effective Date: **11-05-2021**
Approved Exemption: **Contra Costa County, Orange County, and Riverside County**

CPUC Contact Information: tncaccess@cpuc.ca.gov

TNC Contact Information: Stephanie Kuhlman
stephanie.kuhlman@uber.com

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Appendix: Staff Review and Disposition

Background

In accordance with D.20-03-007, Uber Technologies, Inc. (Uber) filed advice letter (AL) 7 on November 20, 2020 requesting exemption from remitting TNC Access for All Fund fees collected in the following counties for Quarter 4 (Q4) of 2020 through Q3 of 2021:

- Contra Costa County
- Orange County
- Riverside County

On December 10, 2020, the Disability Advocates¹ and San Francisco² filed separate protests against AL 7. On December 17, 2020, Uber replied to these protests. On January 12, 2021, Uber filed a supplemental AL 7A to comply with CPED staff's directive to provide all data unredacted to the service list.

To qualify for an exemption in a geographic area, D.20-03-007 requires a Transportation Network Company (TNC) to file an advice letter demonstrating: (1) the presence and availability of WAVs, (2) improved level of service, (3) outreach efforts, (4) accounting of funds expended, (5) training and inspections, (6) complaints related to WAV service, and (7) quarterly report.

The *Table 1* exemption evaluation criteria adopted in D.20-03-007 is summarized below in Table 1:

Table 1: Criteria for Evaluating Exemptions

Evaluation Criteria	Must Demonstrate	Satisfied By
1. Presence and availability of WAVs	(a) the number of WAVs in operation - by quarter and aggregated by hour of the day and day of the week, and (b) the number and percentage of WAV trips completed, not accepted, cancelled by passenger, cancelled due to passenger no-show, and cancelled by driver – by quarter and aggregated by hour of the day and day of the week	Submission of the relevant data
2. Improved level of service	(a) 80 percent of its completed wheelchair accessible vehicle (WAV) trip response times achieve the	Achievement of the Exemption Time Standard ³

¹ Disability Rights California, Disability Rights Education & Defense Fund, and the Center for Accessible Technology

² San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority and San Francisco Mayor's Office on Disability

³ D.20-03-007, Ordering Paragraph 5.

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	<p>corresponding Level 2 WAV response time, for a quarter and geographic area, and</p> <p>(b) The TNC achieved the requisite response times for four consecutive quarters.</p>	
3. Efforts to publicize and promote available WAV services	Evidence of outreach efforts such as a list of partners from disability communities, how the partnership promoted WAV services, and marketing or promotional materials of those activities	Submission of the relevant data
4. Full accounting of funds expended	<p>Qualifying offset expenses are:</p> <p>(a) reasonable, legitimate costs that improve a TNC's WAV service, and</p> <p>(b) incurred in the quarter for which a TNC requests an offset, and</p> <p>(c) on the list of eligible expenses⁴ attached as Appendix A</p>	Submission of the relevant data
5. Training and inspections	<p>(a) certification of WAV driver training completion within the past 3 years,⁵</p> <p>(b) WAV driver training programs used per geographic area, and the number of WAV drivers that completed WAV training in that quarter, and</p> <p>(c) Certification of WAV inspection and approval⁶</p>	Submission of the relevant data
6. Reporting complaints	(a) number of complaints related to WAV drivers or services – by quarter and geographic area, and broken out by category ⁷	Submission of the relevant data
7. Quarterly Report	A TNC that received an exemption shall submit a Quarterly Report for each quarter during its exemption year 30 days after the end of each quarter. The information required in	Submission of the relevant data

⁴ D.20-03-007, Appendix A

⁵ Must include: sensitivity training, passenger assistance techniques, accessibility equipment use, door-to-door service, and safety procedures, D.20-03-007, Ordering Paragraph 13.

⁶ Should state that WAVs conform with the Americans with Disabilities Act Accessibility Specifications for Transportation Vehicles within the past year, D.20-03-007, Ordering Paragraph 13.

⁷ Categories include securement issue, driving training, vehicle safety and comfort, service animal issue, stranded passenger, and others, D.20-03-007, Ordering Paragraph 14.

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the Quarterly Report shall mirror the requirements of an Offset Request.⁸

As described in Table 1, the Commission adopted a specific qualifying exemption standard for evaluating improved level of service in D.20-03-007 (see Table 2 below), but did not set qualifying standards for the five other evaluation criteria. **As long as a TNC demonstrates that it satisfied the Exemption Time Standard for improved level of service and submitted all the required data showing WAV presence and availability, outreach efforts, accounting of expended funds, training and inspections, and complaints related to WAV service, then it is eligible to receive an exemption and its advice letter shall be approved. After a TNC received an exemption, it must submit a quarterly report for each quarter during its exemption year 30 days after the end of each quarter.**

Table 2: WAV Response Times and Exemption Time Standard

Geographic Area/County	Level 1 WAV Response Time (mins)	Level 2 WAV Response Time (mins)
San Francisco	8	16
Alameda, Los Angeles, San Diego, San Mateo, Santa Clara	10	20
Napa, Orange, Sacramento, San Luis Obispo, Santa Barbara, Yolo	12	24
Butte, Fresno, Kern, Monterey, San Bernardino, Santa Cruz, Solano	15	30
Contra Costa, El Dorado, Marin, Placer, Riverside, San Joaquin, Shasta, Sonoma, Stanislaus, Ventura	20	40
Del Norte, Humboldt, Imperial, Inyo, Kings, Lassen, Mendocino, Madera, Merced, Mono, Nevada, Plumas, Sutter, Trinity, Tulare, Yuba	25	50
Alpine, Amador, Calaveras, Colusa, Glenn, Lake, Mariposa, Modoc, San Benito, Sierra, Siskiyou, Tehama, Tuolumne	30	60

Protests to AL 7 and Reply by Uber

On December 10, 2020, the Disability Advocates and San Francisco filed separate protests against Uber's AL 7. The Disability Advocates' protest is based on the grounds that the relief requested would violate statute or Commission order or is not authorized by the statute or Commission order on which the regulated entity relies. San Francisco's protest is based on the following grounds: (1) the relief requested is unjust with the data that is available as Uber fails to adequately demonstrate the "presence and availability" of WAV service or an "improved level of

⁸ D.20-03-007, Ordering Paragraphs 15, 16 and 17.

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service,” and (2) Uber committed material errors or omissions by redacting the fund expenditure data provided in its exemption request to “avoid remitting hundreds of thousands of dollars to the Access Fund for a year.”

Specifically, both Disability Advocates and San Francisco object to Uber’s redaction of some information submitted with its AL 7 arguing that “Uber has not established that it has a valid interest in keeping those categories of data from the public.” Moreover, San Francisco and Disability Advocates argue that Uber has failed to meet the threshold requirements for exemption in terms of (1) presence and availability of WAVs, (2) outreach efforts to promote its WAV service, and (3) full accounting of funds expended as required under SB 1376. Therefore, they argue, Uber’s exemption request must be rejected.

On December 17, 2020, Uber replied to both protests and argued that they are procedurally and substantively flawed. According to Uber, both “San Francisco and Disability Advocates’ protests misinterpret the intent of SB 1376 and the Track 2 Decision, and rely heavily on policy objections instead of the substance of Uber’s AL-7,” which is invalid per General Order (“GO”) 96-B, § 7.4.2. Uber reiterated that it “remains willing to work with all interested parties to expand and improve accessibility transportation options across California.”

Discussion**A. Disposition of AL 7A**

Uber’s AL 7A requested an exemption from remitting TNC Access for All Fund fees collected in Contra Costa, Orange, and Riverside counties starting Q4 2020 through Q3 2021. D.20-03-007 provides the requirements for an exemption request:

For exemption eligibility, a Transportation Network Company (TNC) must demonstrate that:

- (a) 80 percent of its completed wheelchair accessible vehicle (WAV) trip response times achieve the corresponding Level 2 WAV response time, for a quarter and geographic area, and*
- (b) The TNC achieved the requisite response times for four consecutive quarters.⁹*

Further, Ordering Paragraph 5 of D.20-03-007 adopts the WAV response time benchmarks for exemption requests (see Table 2).

⁹ D.20-03-007, Ordering Paragraph 24.

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Table 3 below shows whether the Exemption Time Standard in Q4 2019, Q1 2020, Q2 2020, and Q3 2020 has been met in the three counties where an exemption is being requested. The data below show that the response times for the 80th percentile (see column B) of all completed trips in Contra Costa, Orange, and Riverside counties in each quarter are within the adopted Level 2 benchmarks (see column A). In addition, Uber achieved the required response times for four (4) consecutive quarters (see columns B and C).

Table 3: Summary of Response Times for Exemption

County	(A) Level 2 Exemption Response Time Benchmarks (minutes)	(B) 80th Percentile Response Times (minutes)				(C) Within the Benchmark for 4 Consecutive Quarters
		Q4 2019	Q1 2020	Q2 2020	Q3 2020	
CONTRA COSTA	40	23.27	22.35	22.35	25.23	Yes
ORANGE	24	15.98	15.43	15.37	13.68	Yes
RIVERSIDE	40	14.47	8.22	14.17	5.23	Yes

Having met both parts (a) and (b) of the exemption criteria in D.20-03-007 Ordering Paragraph 24 and having submitted the required data listed in Table 1, CPED approves Uber's exemption request in Contra Costa, Orange, and Riverside counties. Consequently, Uber is exempt from remitting the quarterly Access for All fees collected in these three counties in Q4 2020, Q1 2021, Q2 2021, and Q3 2021. Uber shall continue submitting Quarterly Reports for these quarters and resume remitting quarterly fees in these counties starting in Q4 2021.

B. Protests Against AL 7

The protests over Uber's redaction of certain exemption request data submitted in AL 7 have been effectively addressed by Uber's supplemental AL 7A filing, which included a full unredacted data set. However, the remaining issues raised in the protests cannot be addressed here. Section 5.1 under General Order 96-B, states that "the advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions." Furthermore, Section 7.4.2 provides that "a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility."

The relief requested in the protests concerning Uber's failure to meet the threshold requirements for exemption in terms of (1) presence and availability of WAVs, (2) outreach efforts to promote its WAV service, and (3) full accounting of funds expended as required under SB 1376 raises

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important policy questions that are beyond the scope of what has already been authorized by the Commission within Rulemaking R.19-02-012. Moreover, the relief requested in AL 7A follows the rules established by the Commission, and Staff determined that Uber satisfied the exemption requirements adopted in Decision D.20-03-007 as summarized in Table 1 above.