



December 6, 2021

Advice Letter - 0001

(Cruise LLC PSG 00390807)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Enforcement Division

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SUBJECT: Cruise LLC's Reply to Protest and Comments to Cruise's Application for Driverless Deployment Permit - Tier 3 Advice Letter

I. Introduction

Pursuant to Section 7.4.3 of General Order ("GO") 96-B, Cruise LLC ("Cruise") hereby respectfully submits this reply to the protest submitted by Disability Rights California ("DRC") to Cruise's application for a Driverless Deployment Permit in the form of a Tier 3 Advice Letter ("Advice Letter") to participate in the California Public Utilities Commission's ("Commission") Phase I Driverless Autonomous Vehicle ("AV") Deployment Program ("Driverless Deployment Program") under Cruise's Charter-Party Carrier Class "P" Permit. Cruise also received joint comments from the San Francisco Municipal Transportation Agency ("SFMTA"), the San Francisco County Transportation Authority ("SFCTA"), and the San Francisco Mayor's Office on Disability (collectively, "San Francisco"), which it addresses below.

Cruise's Advice Letter demonstrates that Cruise has satisfied the Commission's requirements for a Driverless Deployment Permit. Cruise's Driverless Deployment Program advances the four goals the Commission established in D.20-11-046 ("Decision") for its new autonomous vehicle programs: (1) it protects passenger safety; (2) it expands the benefits of AV technologies to all Californians, including people with disabilities; (3) it improves transportation options for all, particularly for disadvantaged and low-income communities; and (4) it reduces greenhouse gas emissions, criteria air pollutants, and toxic air contaminants, particularly in disadvantaged communities.¹ A broad range of stakeholders, including members of the California Legislature, the disability community, academics, the electric vehicle community, various business and trade groups, and others submitted 19 letters in support of Cruise's

¹ Decision Authorizing Deployment of Drivered and Driverless Autonomous Vehicle Passenger Service, D.20-11-046 at p. 2 (Cal. P.U.C. Nov. 19, 2020), as modified by Order Modifying Certain Holdings of Decision 20-11-046 and Denying Rehearing of the Decision, as Modified, D.21-05-017 (Cal. P.U.C. May 6, 2021) ("D.20-11-046").

application.² These letters further support approval of Cruise’s application for a Driverless Deployment Permit and illustrate how it will advance the Commission’s goals of creating a safer, more sustainable, and more accessible transportation sector that improves transportation options for all Californians, including people with disabilities and disadvantaged and low-income communities. Cruise’s Passenger Safety Plan (“PSP”) demonstrates our comprehensive commitment to passenger safety.³ Cruise exists to help save lives by developing autonomous vehicle technology that makes our roads safer. In addition, Cruise was the first AV company to operate a fully electric fleet, and it remains the first and only AV company to power its AVs 100% with in-state renewable energy. Cruise thus offers people with disabilities and those from disadvantaged and low-income communities access to electric vehicle technology that they may not otherwise have, while reducing greenhouse gas emissions.

During the development and testing phases of our AVs, Cruise consulted with the disability community, community groups, and passengers, and regularly met with industry regulators and other stakeholders, including the SFMTA. Within the last year alone, Cruise employees and representatives have had dozens of meetings to educate and gather feedback on Cruise’s AV service, including to inform our PSP. Cruise and its representatives also did outreach to more than 100 entities, organizations, and individuals in connection with Cruise’s application for a Driverless Deployment Permit, holding more than 30 meetings. Additionally, Cruise has engaged more than 20 individuals for user research from nearly a dozen disability advocacy organizations, both locally and nationally, with a range of perspectives and priorities. Upon commencing commercial service, we are committed to continuing to work with these and additional stakeholders to incorporate feedback and continuously improve our service.

The issues that DRC and San Francisco raise in their protest and comments do not provide a basis to deny approval of Cruise’s application or place limitations on Cruise’s Driverless Deployment Permit, as San Francisco suggests. Many of the issues are outside the jurisdiction of the Commission and others are policy objections, which are inappropriate grounds on which to protest an advice letter.⁴

Cruise is ready and prepared to commence our commercial service and respectfully requests that the Commission approve its application for a Driverless Deployment Permit at the next possible Commission meeting.

² The following parties submitted letters or responses in support of Cruise’s Advice Letter: (1) Assemblymember Autumn Burke; (2) Senator Dave Min; (3) Senator Lena Gonzalez; (4) American Council of the Blind; (5) California Council of the Blind; (6) Northern California Spinal Cord Injury Foundation; (7) United Spinal Association; (8) Self-Help for the Elderly; (9) San Francisco Chamber of Commerce; (10) San Jose Chamber of Commerce; (11) Hispanic Chambers of Commerce; (12) Chamber of Progress; (13) TechNet; (14) SAFE; (15) Golden Gate Restaurant Association; (16) Coalition of California Utility Employees; (17) Electric Vehicle Charging Association; and (18) William Riggs; and (19) City of Sunnyvale.

³ Cruise Advice Letter, **Attachment 1** (PSP).

⁴ See GO 96-B, Section 7.4.2.

II. Regulatory Structure and the Commission's Jurisdiction

In authorizing pilot programs for drivered and driverless AV passenger service in D.18-05-043, the Commission recognized that the California Department of Motor Vehicles (“DMV”) regulates the safe operation of AVs.⁵ The DMV’s regulatory authority includes authority over the testing, equipment, and performance standards of AVs to ensure the safe operation of AVs on public roads.⁶ It also includes authority over the operational design domain (“ODD”) of AVs, including how the AV is designed to react when it is outside its ODD or encounters commonly-occurring or restricted conditions within its ODD.⁷ Before an AV may be deployed on public roads, a manufacturer must apply for a deployment permit from the DMV. The application process includes the submission of detailed information and certifications concerning the technical abilities and performance of the AV within the ODD and the completion of testing.⁸ The DMV must be satisfied that the AV is safe to operate on public roads before it issues a post-testing deployment permit.⁹ Cruise received its DMV Deployment Permit on September 30, 2021 after a rigorous review by the DMV of its application.¹⁰ The DMV’s issuance of a deployment permit to Cruise means the DMV was satisfied that the Cruise AVs “are safe to operate on public roads.”¹¹

In its comments, San Francisco raises a number of issues concerning the technical performance of Cruise’s AVs, such as the ability to recognize lawful on-street parking spaces, and to respond to directions given by human traffic control officers and lights and sounds of emergency vehicles.¹² These issues, however, are within the jurisdiction of the DMV, not the Commission, as they relate to the technical performance of the AV.

Likewise, as San Francisco points out in its comments, SFMTA parking control officers and San Francisco Police Department officers enforce compliance with the California Vehicle Code and City parking and traffic regulations.¹³ San Francisco’s request that the Commission’s Consumer Protection and Enforcement Division (“CPED”) investigate Cruise’s compliance with traffic regulations before making a recommendation on Cruise’s Advice Letter thus is misplaced. Such an investigation would be outside of the jurisdiction of the Commission and not appropriate for

⁵ Decision Authorizing a Pilot Test Program for Autonomous Vehicle Passenger Service With Drivers and Addressing in Part Issues Raised in the Petitions for Modification of General Motors, LLC/GM Cruise, LLC, Lyft, Inc., and Rasier-CA, LLC/UATC, LLC for Purposes of a Pilot Test Program for Driverless Autonomous Vehicle Passenger Service, D.18-05-043, at pp. 5-13 (Cal. P.U.C. May 31, 2018).

⁶ See Cal. Vehicle Code § 38750(e); Cal. Code Regs. tit. 13, § 228.06 (2021).

⁷ See Cal. Code Regs. tit. 13, § 228.06(a). An “ODD” is the specific operating domain(s) in which an automated function or system is designed to properly operate, including but not limited to geographic area, roadway type, speed range, environmental conditions (weather, daytime/nighttime, etc.) and other domain constraints. See Cal. Code Regs. tit. 13, § 227.02(j).

⁸ See Cal. Code Regs. tit. 13, § 228.06.

⁹ See Cal. Vehicle Code § 38750(e); Cal. Code Regs. tit. 13, § 228.08(e)(2).

¹⁰ See Cruise Advice Letter, **Attachment 2** (DMV Permit).

¹¹ Cal. Vehicle Code § 38750(e)(1).

¹² See, e.g., San Francisco’s Comments on Cruise Application for Driverless Deployment Permit – Tier 3 Advice at p. 5 and Ex. B, Questions 9, 11-12 (“San Francisco Comments”).

¹³ San Francisco Comments at p. 5; see also San Francisco Transp. Code, art. 3, § 3.1.

consideration as part of this application process. Further, as Cruise explains below, our AV service complies with applicable state and local traffic regulations. In the event of violation, however, San Francisco has the authority to enforce state and local stopping, standing, and parking regulations. The Commission does not have jurisdiction over state and local traffic regulations.

Issues raised by DRC and San Francisco that are within the jurisdiction of the Commission include the regulation of passenger service, including safety and consumer protection issues.¹⁴ To that end, in D.20-11-046, the Commission set forth the requirements for participation in the Commission's Driverless Deployment Program that focus on safety and protection of passengers.¹⁵ These requirements include creation and submission of a PSP that describes policies and procedures to minimize risk for all passengers in driverless vehicles.¹⁶ As demonstrated in Cruise's Advice Letter and discussed further below, Cruise has met all of the Commission's requirements, including the submission of a robust PSP that details how Cruise will protect the safety, health, and well-being of our passengers.¹⁷

III. Grounds to Protest an Advice Letter are Limited

Section 7.4.2 of GO 96-B limits the grounds on which an advice letter may be protested to the following grounds:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material errors or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require relitigating a prior order of the Commission.¹⁸

GO 96-B is explicit 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.”¹⁹

¹⁴ See D.18-05-043 at pp. 5, 13-14.

¹⁵ D.20-11-046 at pp. 129-37, OP 7-10, as modified by D.21-05-017.

¹⁶ *Id.* at pp. 136-37, OP 8-10, as modified by D.21-05-017.

¹⁷ See Cruise Advice Letter at pp. 3-7 and **Attachment 1** (PSP).

¹⁸ GO 96-B, Section 7.4.2.

¹⁹ *Id.*

Cruise's Advice Letter follows the rules and directions set forth in D.20-11-046 for an application for a Driverless Deployment Permit. The policy objections that DRC and San Francisco raise to the Advice Letter, which are discussed below, are an inappropriate ground to protest or challenge the Advice Letter and do not provide a basis to deny approval of it.

IV. Cruise's Advice Letter Satisfies Commission Requirements and Our PSP Protects Passenger Safety

Cruise's Advice Letter demonstrates that Cruise has satisfied the Commission's requirements for a Driverless Deployment Permit. Nonetheless, San Francisco suggests that Cruise's application for a deployment permit is "premature" and requests that CPED staff further investigate Cruise's compliance with traffic regulations before making a recommendation on the Advice Letter.²⁰ San Francisco's request should be rejected for multiple reasons.

First, in D.20-11-046, the Commission set forth the requirements for a Driverless Deployment Permit. The requirements include an attestation that at least one Cruise AV that represents the vehicle and technology Cruise plans to use in our Driverless Deployment Program has been in operation on roads in California within the specific ODD in which Cruise intends to operate for a minimum of 30 days following the DMV's issuance of a Deployment Permit.²¹ Cruise provided that attestation.²² D.20-11-046 did not require additional testing of passenger service beyond the 30 days of driverless operations. San Francisco's suggestion that Cruise's passenger service testing has been limited and is insufficient is an inappropriate policy objection that is without basis and should be rejected.

Second, San Francisco's request that CPED staff further investigate Cruise's compliance with traffic regulations before making a recommendation on the Advice Letter must be rejected as it raises issues outside the scope of the jurisdiction of the Commission and CPED staff and also outside the requirements for a Driverless Deployment Permit. As discussed above, and as San Francisco acknowledges, San Francisco police and parking officers, not the Commission, are authorized to enforce compliance with state and local traffic laws.²³ Issuance of a Driverless Deployment Permit to Cruise will not change or affect that authority. San Francisco will be able to enforce compliance if there is a violation of state or local traffic laws.

In any event, San Francisco's allegation that Cruise AVs have failed to follow state and local laws governing the loading and unloading of passengers is erroneous and inaccurate. Safety is Cruise's north star and Cruise's operations have complied with and will continue to comply with California's Vehicle Code and local laws governing stopping, standing, and parking. San Francisco points to two promotional videos ("Cruise Videos") as proof that Cruise is violating Vehicle Code provisions because the Cruise AV double parks to load and unload passengers. However, as San Francisco acknowledges, the Vehicle Code's prohibitions on vehicles

²⁰ San Francisco Comments at pp. 2, 3-9.

²¹ D.20-11-046 at pp. 129-30, OP 7(f), as modified by D.21-05-017.

²² Cruise Advice Letter, **Attachment 4** (Attestation of 30 Days of Driverless Operations).

²³ San Francisco Comments at p. 5; see also San Francisco Transp. Code, art. 3, § 3.1.

stopping, standing, or parking in the street contain an exception for *commercial vehicles*.²⁴ More specifically, California Vehicle Code section 22502(b)(1) expressly permits that commercial vehicles are allowed to stop or park more than 18 inches from a curb when “reasonably necessary to accomplish the loading or unloading of” passengers from a vehicle – in other words, to double park.²⁵ Cruise AVs are commercial vehicles under the Vehicle Code.²⁶ Upon arriving at a pick-up location, the Cruise AV first will look for available curb space to which it can legally pull over for passenger loading. However, if curb space is not available, the Cruise AV will double park, which it may do as a commercial vehicle under the Vehicle Code, like other commercial vehicles, as reasonably necessary for the loading or unloading of passengers,²⁷ except where restricted under local regulations.²⁸ Cruise’s operations thus are not only explicitly legally permissible under the Vehicle Code but are consistent with the lawful operation of other commercial vehicles registered in California. The Commission and this process are not the venue in which to address concerns related to the ability of commercial vehicles to double park in certain circumstances under state law.

Notably, the Vehicle Code does not include a definition of “reasonably necessary” or provide any clear indication of circumstances that would be considered “reasonably necessary.” A determination of whether it is “reasonably necessary” for a commercial vehicle to double park, however, is not tied to a single factor, such as San Francisco’s suggestion that the availability of white curb space in the vicinity of the pick-up or drop-off necessarily means that double parking is not reasonably necessary.²⁹ Rather, a determination must be on a case-by-case basis dependent on various facts and circumstances. For example, the time needed to accomplish loading or unloading may factor into whether it is “reasonably necessary” to double park.³⁰ Thus, a commercial delivery vehicle, such as a FedEx truck, may double park to make a delivery even if a loading zone is nearby for a number of reasons that would be “reasonably necessary,” including the truck’s inability to fit into the loading zone without causing additional traffic impediments. It may be safer and easier for the commercial delivery vehicle to double park and quickly deliver a package in a matter of seconds, as opposed to blocking traffic to parallel park into a white curb space. It thus would not be reasonable to watch a video of a FedEx truck double parking and conclude that all FedEx trucks are violating traffic laws merely because white curb space is available nearby.

²⁴ San Francisco Comments at p. 6.

²⁵ Cal. Vehicle Code § 22502(b)(1).

²⁶ See Cal. Vehicle Code § 260 (defining “commercial vehicle” as a motor vehicle “used or maintained for the transportation of persons for hire, compensation, or profit”). See *also* Cruise Autonomous Vehicle Testing (AVT) Program Manufacturer Permit – Driverless Vehicles (designating vehicle type as “commercial”), included as part of Cruise’s application for TCP authority.

²⁷ See Cal. Vehicle Code § 22502(b)(1).

²⁸ See, e.g., San Francisco Transp. Code, art. 7, § 7.2.85.

²⁹ See San Francisco Comments at p. 7 and Exhibit A, p.1.

³⁰ San Francisco, for example, allows commercial vehicles up to five minutes of engine idling when parked, although if a commercial vehicle is temporarily stopped to load or unload passengers, it may idle no longer than is reasonably necessary to load or unload passengers. See San Francisco Transp. Code, art. 7, § 7.2.86.

Further, to the extent San Francisco has implemented restrictions on commercial loading and unloading of passengers in certain business districts or has restricted use of curbs,³¹ Cruise has included these restrictions in its maps based on data from its drivered testing fleet and open-source information hosted by San Francisco.³² It also has engaged directly with the SFMTA about its curb management policies. Cruise has developed high-fidelity street-level imagery about curb colors that it incorporates into its maps to avoid passenger loading in prohibited blue and red curb zones.³³ As Cruise has informed San Francisco, improving access to up-to-date data about changes to curb uses would facilitate Cruise's ability to account further for San Francisco's curb management policies. Even without that updated data, Cruise continues improvements via additional mapping and labeling during on-road operations.

In its analysis of the Cruise Videos, San Francisco fails to point out that none of the fourteen stops occurred at a location where San Francisco elected to restrict commercial vehicle double parking. The Cruise Videos thus themselves rebut and correct San Francisco's erroneous allegations of unlawful stopping and parking. Double parking was not restricted in any of the locations where the Cruise AV stopped in the Cruise Videos. Each stop and the loading and unloading of passengers were conducted in compliance with the Vehicle Code and San Francisco Transportation Code.

To illustrate, San Francisco criticized in detail the first pick-up ("P1") in Cruise Video #1:³⁴

For P1, the video shows clearly that there is marked and signed white passenger loading curb available where the passenger is initially waiting, as shown in the screenshot below. Instead of picking the passenger up at the white curb, the vehicle stops in the travel lane and the passenger crosses the street to get into the vehicle.³⁵

According to San Francisco, the video footage "implies that the Cruise software does not identify the side of a street from which the passenger seeks service and does not seek to use curbs designated for passenger loading – even when they are immediately available and/or even more proximate to the requesting passenger(s)."³⁶ San Francisco, however, likely was not able to ascertain from the video footage that the requested location for the pick-up was, in fact, on the side of the street where the Cruise AV stopped.³⁷ Upon arrival at the requested location, no curb space was available. Therefore, the Cruise AV lawfully double parked next to an unmarked curb. It also is important to note that the total time the Cruise AV was double parked

³¹ See, e.g., San Francisco Transp. Code, art. 7, §§ 7.2.25 to 7.2.28, § 7.2.85.

³² See, e.g., The City and County of San Francisco, DataSF, Accessible Curb (Blue Zone), <https://data.sfgov.org/Transportation/Accessible-Curb-Blue-Zone-/g69s-9jxr>.

³³ See Cal. Vehicle Code § 21458.

³⁴ P1 and D1 in the Cruise Video #1 are same as P1 and D1 in Cruise Video #2.

³⁵ San Francisco Comments at Exhibit A, p. 1.

³⁶ *Id.*

³⁷ The requested pickup location is 2295 California Street, San Francisco, CA, which can be seen at timestamp 1:39 of Cruise Video #1. The passenger was on the other side of the street from the requested pick-up location for better visibility and filming of the approaching Cruise AV.

– from the time the Cruise AV stopped to the time the passenger waited for the traffic light, walked to the Cruise AV, unlocked the door, buckled the seat belt, and started the ride – was under two minutes – less than the five minutes San Francisco allows commercial vehicles to idle when parked.³⁸

Cruise prioritizes the safe and lawful pick up and drop off of passengers consistent with its obligations under the Vehicle Code, DMV regulations, and local laws relevant to stopping, standing, and parking, as well as the Commission’s safeguards for passenger safety. Further, as noted above, to the extent San Francisco observes a traffic violation, it may ticket and fine the Cruise AV at the time of the incident after witnessing the circumstances in which the violation occurred. CPED should not give credence to San Francisco’s unsubstantiated allegations concerning future, potential non-compliance with traffic laws.

Third, Cruise’s PSP explains in detail how passengers will be able to locate their designated Cruise AV, how passengers will be able to enter the Cruise AV safely, how passengers will be able to initiate their ride safely, including instructions on checking doors and seat belts, how passengers will be able to exit the Cruise AV safely with consideration for other road users.³⁹ Cruise’s PSP more than satisfies the Commission’s requirement that Cruise have policies and procedures in place to minimize safety risks to passengers traveling in an AV.⁴⁰

In addition, Cruise has met with the SFMTA several times over the last few months to discuss concerns and share information about Cruise’s operations. The hope of those meetings was to create a transparent and open dialogue of concerns and collaborate on ways Cruise and SFMTA could work together around topics like pick up and drop off of passengers. Despite meeting with the SFMTA multiple times, San Francisco did not share the list of questions it has included as Exhibit B and C to its comments. Cruise saw the questions for the first time in San Francisco’s comments.

Fourth, San Francisco’s perceived “material errors” in the map of Cruise’s initial ODD is based on a misunderstanding of the map.⁴¹ The map represents a snapshot of street and area exclusions. In yellow, it shows streets or portions thereof and areas that have been excluded based on San Francisco city programs in place as of the date of the map, such as Slow Streets. In red, it shows streets or portions thereof and areas that Cruise has excluded entirely from its initial ODD.⁴² The map was not intended to and does not show multi-lane streets that include dedicated light transit rail lanes (e.g., Muni) and lanes without dedicated light transit tracks. Thus, using San Francisco’s example, the Muni “N Judah” light rail line is not shown in the initial ODD map because it is a multi-lane street.⁴³ However, to clarify any confusion and confirm Cruise’s ODD and avoidance areas, the Cruise AV has knowledge of the locations of light transit rail and of exclusive taxi and bus lanes because they are mapped features, and the

³⁸ See San Francisco Transp. Code, art. 7, § 7.2.86.

³⁹ Cruise Advice Letter, **Attachment 1** (PSP), Sections 4.1 to 4.5.

⁴⁰ See D.20-11-046 at pp. 136-37, OP 8, as modified by D.21-05-017.

⁴¹ San Francisco Comments at p. 2.

⁴² See Cruise Advice Letter, **Attachment 1** (PSP), Section 8.1 (Operational Design Domain).

⁴³ See San Francisco Comments at p. 2.

Cruise AV will not go onto a lane with a dedicated light transit rail track, except for a safety reason.

Finally, the Commission should reject San Francisco's suggestion that if CPED staff is inclined to recommend approval of the Advice Letter, service should be limited to the initial ODD, including service area, number of vehicles, and hours of operation, and a subsequent advice letter should be required for any changes to these parameters.⁴⁴ The DMV has jurisdiction over Cruise's ODD, including its geographic scope. Cruise's DMV-approved ODD is subject to change based on DMV regulations and DMV approval.⁴⁵ The Commission does not have jurisdiction over Cruise's ODD. Nor does D.20-11-046 require a subsequent advice letter for changes to the ODD. Rather, D.20-11-046 requires only that an updated PSP be provided to CPED by way of a Tier 2 Advice Letter if an entity "intends to change its operations in such a way that would materially affect the approaches outlined in its Passenger Safety Plan."⁴⁶ San Francisco's suggestion is an inappropriate challenge to the Commission's decision and Cruise's Advice Letter.

V. Cruise's Driverless Deployment Program Advances the Commission's Goal of Expanding AV Service to All Californians, Including People with Disabilities

Cruise's application for a Driverless Deployment Permit has received broad support from the disability community, as well as technology and transportation experts because they recognize that Cruise's Driverless Deployment Program will help close the accessibility gap.⁴⁷ The disability community has emphasized that Cruise has consulted with accessibility stakeholders throughout the development and testing phase of Cruise AVs⁴⁸ and has shown "a determination and willingness to partner with the disability community."⁴⁹ The American Council of the Blind, California Council of the Blind, Northern California Spinal Cord Injury Foundation, and United Spinal Association all have urged the Commission to approve Cruise's application so that passengers with disabilities can have access to a transportation option that allows them to travel without having to depend on a stranger for their transportation needs.⁵⁰ Cruise's Driverless Deployment Program will allow passengers of all needs and abilities to travel independently and retain their autonomy and further the Commission's goal of expanding AV service to all Californians, including people with disabilities.⁵¹

⁴⁴ See San Francisco Comments at p. 9.

⁴⁵ See e.g., Cal. Code Regs. tit. 13, § 228.10; see also Cruise Advice Letter, **Attachment 2** (DMV Permit).

⁴⁶ D.20-11-046 at p. 140, OP 20, as modified by D.21-05-017.

⁴⁷ See, e.g., Letter from American Council of the Blind; Response of California Council of the Blind; Letter from Northern California Spinal Cord Injury Foundation; Response of United Spinal Association; Letter from Chamber of Progress; and Letter from William Riggs.

⁴⁸ See, e.g., Letter from American Council of the Blind; Response of California Council of the Blind; Letter from Northern California Spinal Cord Injury Foundation; and Response of United Spinal Association.

⁴⁹ Letter from California Council of the Blind at p. 1.

⁵⁰ See, e.g., Letter from American Council of the Blind; Response of California Council of the Blind; Letter from Northern California Spinal Cord Injury; and Response of United Spinal Association.

⁵¹ D.20-11-046 at p. 2.

Cruise's PSP describes the accessibility features and safety measures Cruise has incorporated into its Driverless Deployment Program that are designed to support passengers who are hearing or visually impaired. These features have been built into Cruise's mobile application, the in-vehicle passenger experience, and the manner and means by which passengers can communicate with Cruise Customer Support.⁵² Cruise's PSP also confirms that Cruise's Driverless Deployment Program will meet Cruise's legal accessibility obligations, including accommodations for service animals and other means of supporting access.⁵³ Cruise explained that the Cruise AV can securely fit a foldable wheelchair on the rear floor or backseat with one passenger.⁵⁴ The rear floor and backseat can also accommodate similar sized foldable walkers and foldable scooters, in addition to other smaller assistive devices such as crutches and canes.⁵⁵

Once Cruise commences the initial phase of its Driverless Deployment Program, Cruise is committed to continuing to engage with the disability community, including DRC, and receive feedback so that Cruise can continue to improve the user experience and further develop our accessibility features.⁵⁶

In addition, ultimately, Cruise will provide rides in its purpose-built vehicle, the Origin. Cruise is exploring a wheelchair accessible version of the Origin and is working with the disability community to test early prototypes.⁵⁷ San Francisco points to the image of the Origin in Cruise's PSP, claiming that it does not illustrate the key features that would be expected in a vehicle designed to be accessible for people who use wheelchairs, such as lifts or ramps.⁵⁸ Although San Francisco lacks both authority and jurisdiction to regulate the design, construction, manufacture, modification, or performance of vehicles and special equipment used by people with disabilities, the prototype Cruise is developing and testing includes a ramp as shown in the image below:

⁵² Cruise Advice Letter, **Attachment 1** (PSP) at Section 2.3.1, pp. 6-7 (Accessible safety measures) and Section 5.3, p. 21 (Accessible Customer Support).

⁵³ *Id.*

⁵⁴ *Id.* at Section 2.3.2, pp. 7-8 (Wheelchair Accessible Vehicles).

⁵⁵ *Id.* at 8.

⁵⁶ *Id.* at pp. 7, 21.

⁵⁷ *Id.* at p. 8.

⁵⁸ See San Francisco Comments at p. 11; see also Cruise Advice Letter, **Attachment 1** (PSP) at Section 2.3.1, p. 8 (Wheelchair Accessible Vehicles).



Rendering of wheelchair accessible version of Origin (provided as example: actual may vary)

As Cruise works to bring the Origin to market, Cruise looks forward to continuing to engage with San Francisco on curbside access for passengers with mobility constraints. In its February 2020 Curb Management Strategy, the SFMTA identified several of the many challenges that currently exist relating to accessible passenger loading zones, including that although San Francisco "has created loading zones restricted to paratransit, these are not defined in the Code."⁵⁹ As a result, even well prior to Cruise's submission of its Advice Letter, San Francisco has acknowledged there is a lack of accessibility-friendly passenger loading zones for all existing vehicle types across San Francisco and often not enough curbside space regardless of vehicle type to get passengers as close as possible to their destinations.⁶⁰ Recognizing the unfortunate persistence and long standing nature of this challenge, Cruise welcomes the opportunity to work with SFMTA and other city agencies as they work towards implementing greater accessible passenger loading zones in support of the Curb Management Strategy.

Cruise also has hired a full-time, in-house Accessibility Program Manager, who prior to joining Cruise, worked on accessibility at organizations including Google, Charter Communications, and San Jose State University. The Accessibility Program Manager has a wealth of experience and has been actively working to deepen Cruise's relationships with organizations and advocates in San Francisco and nationally. The Accessibility Program Manager also has been working internally on a range of accessibility issues, including assisting in the development of a wheelchair-accessible version of the Origin. Along with Cruise's User Research team, the Accessibility Program Manager conducted a two-week user study with a dozen users ranging from low vision/blind, wheelchair users, and service animal users to provide feedback on

⁵⁹ SFMTA, Curb Management Strategy at p. 88 (February 2020), https://www.sfmta.com/sites/default/files/reports-and-documents/2020/02/curb_management_strategy_report.pdf.

⁶⁰ *Id.*

Cruise's prototype of a wheelchair-accessible version of the Origin. Users evaluated issues such as ingress/egress of the vehicle, safety and comfortability, and ease of use to ensure Cruise's engineers work towards an equitable and accessible experience. Along with the study, Cruise has engaged with community leaders and the general public, consisting of users with disabilities, to collect feedback virtually from those who could not attend in person. Cruise's research in this area is ongoing and Cruise will continue to engage the disability community in Cruise's development efforts.

Despite Cruise's efforts to build and design an accessible service that exceeds our legal obligations and the Commission's requirements in D.20-11-046, DRC nonetheless protests Cruise's Advice Letter and asks that the Commission require Cruise to commit to providing wheelchair accessible vehicles (WAVs) and take other steps to increase accessibility prior to beginning operation.⁶¹ San Francisco similarly claims that Cruise's "operational plans" fall short of "what is required to achieve Commission goals or to avoid discrimination against people who use wheelchairs" and speculates that Cruise does not intend "to provide equivalent service to people who use wheelchairs."⁶² DRC's request that Cruise be required to provide WAV service and San Francisco's assertion that Cruise's service falls short of what is required to achieve Commission goals or avoid discrimination are without merit for several reasons.

First, in D.20-11-046, the Commission did not mandate WAV service as a condition for a Driverless Deployment Permit.⁶³ The Commission also did not adopt the SFMTA's and SFCTA's proposed goal that "AV Passenger Service should provide equivalent service to people with disabilities, including people using wheelchairs."⁶⁴ In addition, the Commission elected not to define "accessibility."⁶⁵ The Commission further agreed that any definition of accessibility should remain broad and inclusive to make clear that the Commission intends to expand the benefits of AV technologies to all communities and demographics.⁶⁶ Cruise has that same goal. DRC's request that Cruise be required to offer WAV service and San Francisco's suggestion that Cruise be required to provide equivalent service are improper attempts to relitigate the Commission's determination in D.20-11-046 that WAV service and equivalent service are not required for a Driverless Deployment Permit.⁶⁷ They also constitute improper policy objections to the Advice Letter.⁶⁸

Second, contrary to DRC's contention and San Francisco's suggestion, the Americans with Disabilities Act ("ADA") does not require Cruise to purchase or lease WAVs.⁶⁹ Several recent federal court decisions, including one from the United States District Court for the Northern District of California, have held that private entities that provide public transportation services, if

⁶¹ DRC Protest at pp. 2-5.

⁶² San Francisco Comments at p. 11.

⁶³ See D.20-11-046 at p. 38.

⁶⁴ *Id.* at pp. 37-38.

⁶⁵ *Id.* at p. 38.

⁶⁶ *Id.*

⁶⁷ See GO 96-B, Section 7.4.2.

⁶⁸ *Id.*

⁶⁹ See DRC Protest at pp. 2-3; San Francisco Comments at p. 11.

covered under Section 12184 of Title III of the ADA,⁷⁰ are not required to purchase or lease WAVs with a seating capacity of less than eight passengers.⁷¹ This conclusion is consistent with regulations of the United States Department of Transportation to which Congress delegated the authority to carry out the goals of the ADA. Those regulations state: “Under the ADA, no private entity is required to purchase an accessible automobile.”⁷²

Cruise acknowledges that entities covered under Section 12184 are required to make reasonable modifications to remedy discriminatory policies, practices, or procedures, unless the modifications would fundamentally alter the nature of the services provided.⁷³ But no discriminatory policies, practices, or procedures have been established in the first instance. Rather, DRC and San Francisco merely offer unsupported speculations about the nature of Cruise’s intended services and the effect they may have.⁷⁴ And their speculations are contrary to the broad support Cruise has received from the disability community, which recognizes that Cruise’s Driverless Deployment Program will increase the accessibility of AV service to people with disabilities. DRC’s and San Francisco’s speculations should not be taken into account in reviewing and evaluating Cruise’s request for a Driverless Deployment Permit.

Finally, DRC’s requests that Cruise be required to provide auxiliary aids, anti-discrimination and disability competence training, and change the way it tracks complaints to create a separate category for accessibility complaints likewise should be disregarded.⁷⁵ D.20-11-046 does not require them as a condition for a Driverless Deployment Permit.⁷⁶ In addition, Cruise’s accessibility safety features and complaint tracking system, as detailed in its PSP, more than satisfy the Commission’s requirements.⁷⁷

Section 5.4 of the PSP explains that Cruise’s feedback system will allow us to collect, investigate, and respond to any passenger comments and complaints and help us improve our service.⁷⁸ DRC’s assumption that “[t]his system obscures the prevalence of accessibility complaints, allowing those complaints to be hidden under other categories” is incorrect.⁷⁹ Cruise has the capability to isolate feedback across all categories based on its accessibility settings. Cruise also will be able to tag certain passenger comments and complaints with accessibility tags when feedback is received outside of a trip. In addition, as Cruise has

⁷⁰ 42 U.S.C. § 12184.

⁷¹ See, e.g., *Indep. Living Res. Ctr. San Francisco v. Lyft, Inc.*, No. 19 Civ. 1438, 2020 WL 6462390, at *2 (N.D. Cal. Nov. 3, 2020); *O’Hanlon v. Uber Techs., Inc.*, No. 19 Civ. 675, 2021 WL 2415073, at *7-8 (W.D. Pa. June 14, 2021). See also 42 U.S.C. § 12184(b)(3).

⁷² 49 C.F.R. Pt. 37, App’x D; see *Indep. Living Res. Ctr. San Francisco*, 2020 WL 6462390, at *2 (citing 49 C.F.R. Pt. 37, App’x D).

⁷³ See 42 U.S.C. §§ 12182(b)(2)(A)(ii), 12184(b)(2)(A).

⁷⁴ See DRC Protest at p. 3; San Francisco Comments at p. 11.

⁷⁵ See DRC Comments at pp. 3-5.

⁷⁶ See D.20-11-046 at pp. 38, 129-37, OP 7-10, as modified by D.21-05-017.

⁷⁷ See D.20-11-046 at pp. 136-37, OP 8, as modified by D.21-05-017; Cruise Advice Letter, **Attachment 1** (PSP) at Section 2.3.1, pp. 6-7 (Accessible safety measures); Section 5.3, p. 21 (Accessible Customer Support); and Section 5.4, pp. 21-22 (Feedback).

⁷⁸ Cruise Advice Letter, **Attachment 1** (PSP) at Section 5.4, pp. 21-22 (Feedback).

⁷⁹ DRC Protest at p. 5.

emphasized, we are committed to continuing to engage with the disability community, including DRC, so that Cruise can continue to improve the user experience and further develop our accessibility features.

VI. Cruise's Driverless Deployment Program Advances the Commission's Goal of Improving Transportation Options for All, Including Disadvantaged and Low-Income Communities

Cruise's Driverless Deployment Program will serve a broad range of residents in San Francisco, as Cruise aims to provide an affordable, accessible service to a wider range of users and communities than are served by today's transportation options. Indeed, the letters Cruise has received in support of its Advice Letter expressly recognize the value of Cruise's technology in creating a safer, more sustainable, and more accessible transportation sector that improves transportation options for all Californians, especially disadvantaged and low-income communities.⁸⁰ Cruise's fully electric fleet powered entirely with in-state renewable energy offers disadvantaged and low-income communities access to electric vehicle technology that they may not otherwise have, while reducing greenhouse gas emissions.

D.20-11-046 does not require that Cruise's initial service area encompass a specified percentage of low-income and disadvantaged communities. Rather, in D.20-11-046, the Commission expressly declined to set a uniform equity target, recognizing that AV companies will operate under different business models and at different scales and programs will evolve over time.⁸¹ Indeed, Cruise's planned future ODD will encompass all of San Francisco.⁸² San Francisco's suggestion that Cruise's AV service does not meet the Commission's goal of improving transportation options for all, particularly disadvantaged and low-income communities, has no merit.

In addition to our core Driverless Deployment Program, which will help bridge the equity gap in the transportation sector, Cruise is particularly proud of our social impact work, including our hallmark dedicated social impact program Cruise For Good and our participation in the globally recognized Pledge 1% movement.⁸³ At the heart of our Cruise for Good program is our commitment to pledge at least 1% of our fleet to serve local communities in need.⁸⁴ To the best of our knowledge, Cruise's commitment is above and beyond the activity of other operators in the AV industry currently, the activity of TNC operators at similar stages in their life cycles, and the activity of any private vehicle for hire operator.

⁸⁰ See, e.g., Letter from Assemblymember Autumn Burke; Letter from Senator Dave Min; Letter from Senator Lena Gonzalez; Response from Self-Help for the Elderly; Response from Electric Vehicle Charging Association; and Letter from Chamber of Progress.

⁸¹ See D.20-11-046 at pp. 40-41.

⁸² See Cruise Advice Letter, **Attachment 1** (PSP), Section 8.1, Planned Future Operational Design Domain.

⁸³ See Dan Ammann, Introducing Cruise for Good (April 23, 2021), <https://medium.com/cruise/introducing-cruise-for-good-8ebf9bfdaf4a>; Pledge 1%, Building a Movement of Corporate Philanthropy, <https://pledge1percent.org/>.

⁸⁴ See Introducing Cruise for Good.

As our CEO Dan Ammann noted at the launch of Cruise For Good in April 2021, Cruise For Good “represents the best of what our new technology is capable of — improving the quality of life in our cities, especially for people underserved by the limitations of transportation today.”⁸⁵

Cruise has implemented three main approaches to improve the quality of life in our cities and promote equity in the transportation sector:

- Partnering with nonprofits and organizations that know their communities the best
- Serving people who are the most vulnerable
- Going where the need is greatest

Significantly, Cruise’s work to serve the San Francisco community began well before our official launch of Cruise For Good in April 2021. At the beginning of the COVID-19 pandemic, Cruise partnered with the San Francisco-Marin Food Bank and SF New Deal to deliver meals and groceries from the food bank and local restaurants to vulnerable community members. This crisis response inspired us to make a long-term commitment to allocate a portion of our fleet to partner with nonprofits meeting urgent community needs.

To date, and contrary to San Francisco’s indifference to our efforts,⁸⁶ Cruise’s all-electric vehicles have made a significant positive impact in San Francisco:

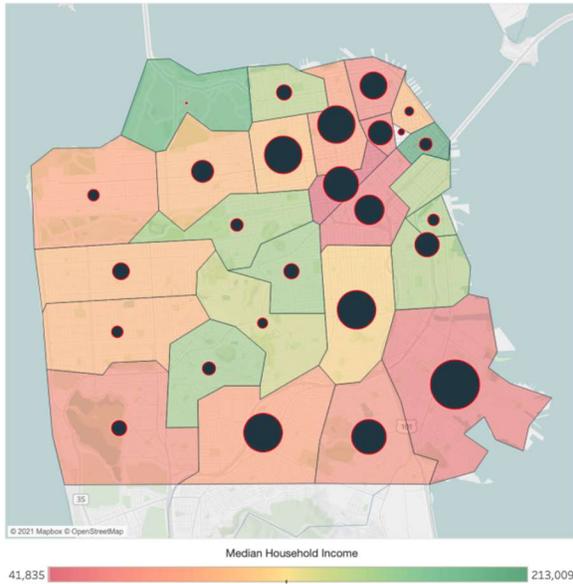
- We have delivered more than 1.8 million meals to San Franciscans
- Approximately 80% of the meals were delivered in zip codes below the poverty line
- Approximately 75% of the meals were delivered to the 10 zip codes hardest hit by COVID-19 cases
- 90 metric tons of CO₂ emissions - and associated air pollution – were offset by our deliveries

The charts below show the measurable positive impact our efforts have had across the entire City of San Francisco, predominantly in frontline, disadvantaged, and low-income communities.⁸⁷

⁸⁵ *Id.*

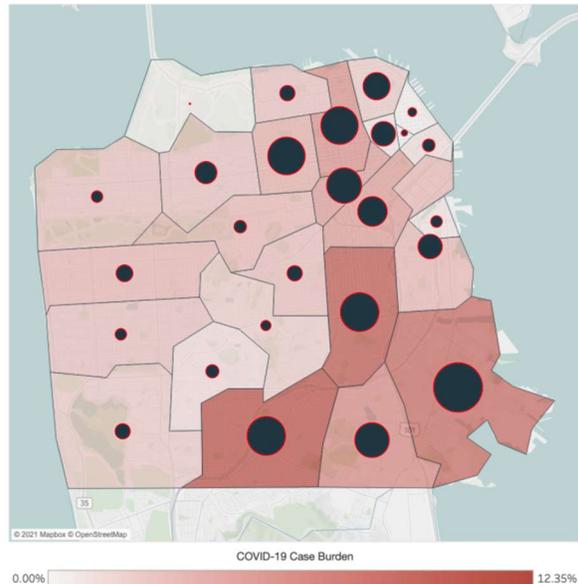
⁸⁶ San Francisco Comments at p. 9.

⁸⁷ Calculations for median household income and COVID-19 case burden by zip code tabulation area are based on the latest available U.S. Census American Community Survey results and San Francisco Department of Public Health’s reporting on DataSF, respectively.



Cruise Deliveries by Median Household Income

April 2020 - November 2021



Cruise Deliveries by COVID-19 Case Burden

April 2020 - November 2021

Efforts like Cruise for Good will continue through the future, particularly in traditionally underserved and under-resourced communities that disproportionately experience poverty or have borne a higher burden of the COVID-19 pandemic. As Cruise’s fleet and footprint grows – in San Francisco and in other jurisdictions across California – our commitment to allocate *at least* 1% of our fleet to serve local communities in need will scale as well. Our efforts and commitment will continue as we believe it is the right thing to do.

VII. Conclusion

Cruise’s Advice Letter demonstrates that Cruise has satisfied the Commission’s requirements for a Driverless Deployment Permit. Cruise therefore respectfully requests that the Commission approve its application for a Driverless Deployment Permit at the next possible Commission meeting.

Respectfully submitted,

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