

**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

**OPENING COMMENTS OF  
SIDECAR TECHNOLOGIES, INC. AND SIDE.CR, LLC  
ON PROPOSED DECISION OF COMMISSIONER PEEVEY**

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In accordance with Rule 14.3 of the Rules of Practice and Procedures (the “Rules”) of the California Public Utilities Commission (the “Commission”), Sidecar Technologies, Inc. and Side.cr, LLC (hereinafter referred to as “Sidecar”) hereby submits its opening comments on the Proposed Decision of Commissioner Michael R. Peevey, entitled, “Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry” (the “Proposed Decision”), which was mailed to the parties for review and comment on July 30, 2013 in the above-captioned proceeding. Sidecar’s comments are timely filed.

**I. INTRODUCTION AND SUMMARY OF COMMENTS**

Sidecar commends the leadership of the Commission and the diligent work of Administrative Law Judge (“ALJ”) Robert Mason in examining existing regulations and policies in the area of passenger transportation and developing rules for the operation of “transportation network companies” (or “TNCs”) in California. In fashioning new rules, the Proposed Decision recognizes the strong public demand for innovative transportation options, including shared-transportation services, to accommodate a new and evolving “transportation business model” while ensuring public safety and welfare by institutionalizing important safety and consumer protection requirements. Sidecar’s shared transportation network was inspired by and modeled on both traditional casual carpooling (i.e. commuting slug lines) and new “dynamic ridesharing”

models recently enabled by mobile technology.<sup>1</sup> Since it launched its first-of-a-kind ride-match network in June of 2012, the Sidecar network has been used in a range of shared-transportation circumstances, including traditional and narrow interpretation of the “rideshare” exemption focused on “home-work” commuting.

Sidecar respects the importance of the Commission’s responsibility to “ensure that public safety is not compromised.”<sup>2</sup> We strongly support the Commission’s proposed codification of minimum safety requirements, many of which Sidecar developed when it launched its pioneering network. Accordingly, Sidecar’s comments are intended to enhance the clarity, consistency and effectiveness of the proposed regulatory rules (particularly in light of operational issues) around three core issues: (1) the definition of the term “TNC” and the integrally-related concept of prearrangement; (2) the safety and regulatory requirements detailed in Section 2.2.4 of the Proposed Decision; and (3) the interpretation and application of the rideshare exemption in Public Utilities Code Section 5353(h).<sup>3</sup>

## **II. TRANSPORTATION NETWORK COMPANIES**

Under the Proposed Decision, Sidecar would be afforded the opportunity to be licensed as a TNC, a new regulatory category of transportation carriers established by this Commission. Several aspects of this new regulatory category need to be more clearly defined.

### **A. The Definition and Intended Application of the “TNC” License Category Should Be Clarified.**

The Proposed Decision defines a “TNC” as a “company or organization, operating in California that provides transportation services using an online-enabled platform to connect passengers with drivers using their personal, non-commercial, vehicles . . . .” Sidecar believes this definition does not clearly identify the scope of information exchange and rideshare mobile platforms intended to be regulated by the Commission.

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<sup>1</sup> [Markets for Dynamic Ridesharing](http://www.uctc.net/research/papers/UCTC-FR-2011-01.pdf). Elizabeth Deakin, Karen Trapenberg Frick,, Kevin M. Shively. University of California, Berkeley, February 2011. <http://www.uctc.net/research/papers/UCTC-FR-2011-01.pdf>.

<sup>2</sup> Proposed Decision, p. 2.

<sup>3</sup> [Appendix A](#) sets forth Sidecar’s recommendations and proposals to modify the Proposed Decision’s Safety Requirements, Regulatory Requirements, Findings of Fact, Conclusions of Law and Ordering Paragraphs.

Under the definition as currently proposed, any communications platform that permits or facilitates ride-matching or shared-transportation by individuals using their personal vehicles might be construed to fall under the TNC definition, triggering the Proposed Decision’s comprehensive licensing process and regulatory requirements. It is unclear if the Commission intends, for example, to declare a TNC and regulate a service like Craigslist that hosts and makes available through a smartphone app an “online” ridesharing message board to “connect passengers with drivers using their personal, non-commercial vehicles.”<sup>4</sup> The current definition would also appear to cover other smartphone-enabled services that are currently used for ride-matching. These include such diverse networks as Facebook, Twitter<sup>5</sup> and Avego, as well as group message board and list-serve affinity groups (Yahoo or Google Groups). It would appear impractical and inadvisable to require networks such as these to be licensed as TNCs or, perhaps in the alternative, to monitor and censor requests to share rides where “compensation” – whether in the form of gas, trip or other expenses – is offered.

The definition also appears to exclude companies that provide transportation services using an online-enabled platform where drivers use commercial vehicles, such as Uber – as opposed to Uber’s ridesharing platform UberX. This outcome is inconsistent with the apparent intent of the Proposed Decision to regulate Uber in some fashion, including multiple references to “Uber” as a TNC<sup>6</sup> and the statement that a company wishing to “facilitate transportation of passengers” should choose to get either a TCP license or a TNC license.<sup>7</sup> Excluding providers that partner with TCP-licensed drivers also conflicts with an element of the Commission’s justification for extending regulatory jurisdiction to TNCs as charter-party carriers, rather than as IP-enabled platform services.<sup>8</sup>

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<sup>4</sup> If the Commission does not intend for these networks to be licensed as TNCs or, perhaps in the alternative, to require they monitor and censor requests to share rides where “compensation” – whether in the form of gas, trip or other expenses – is offered, then we urge clarification of the definition.

<sup>5</sup> See NPR, “[Teens Use Twitter to Thumb Rides](http://www.npr.org/blogs/alltechconsidered/2013/08/15/209530590/teens-use-twitter-to-thumb-rides)” (available at <http://www.npr.org/blogs/alltechconsidered/2013/08/15/209530590/teens-use-twitter-to-thumb-rides>).

<sup>6</sup> See e.g. Proposed Decision, pp. 14, 44 and 49.

<sup>7</sup> Proposed Decision, p. 52.

<sup>8</sup> Proposed Decision, pp. 12-14.

Finally, a network operator might design an online-enabled platform – incorporating stringent measures, software matching algorithms and network monitoring – that is tailored to comply with the Legislature’s intent and the Commission’s strict interpretation of the rideshare exemption under Public Utilities Code Section 5353(h), but that would still fall under a plain reading of the TNC definition. To be consistent with that statute, the TNC definition should include an exception for networks that facilitate “ridesharing” as strictly interpreted by the Proposed Decision or that undertake specific safeguards to prevent transportation matching communications for purposes outside this statutory ridesharing definition.

Sidecar appreciates the challenge of defining a new regulatory category that appropriately captures the intended activity without overreaching to include exempted activity. However, without further clarification, the proposed definition of TNC would result in an uncertain regulatory environment that might undermine innovation and investment in a sector that the Commission recognizes is still very much a “nascent industry” and that could have widespread positive impacts both for customer choice and for the environment. We encourage the Commission to further refine the definition of TNC set forth in the Proposed Decision, including, especially, at Finding of Fact No. 7, to clarify that the new, licensable category of transportation service provider is intended: (1) to include applications where facilitation of transportation involves commercial vehicles;<sup>9</sup> but also (2) to exclude networks and applications consistent with Public Utilities Code Section 5353(h).

**B. TNC Prearrangement Requires Destination Information.**

Guided by the plain meaning of the term “prearranged” as “something arranged in advance,” the Proposed Decision generally finds that “TNCs operate on a prearranged basis.”<sup>10</sup> The Proposed Decision rejects a minimum time requirement for an advanced reservation, finding instead, that TNCs satisfy the “prearrangement” requirement applicable to all charter party

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<sup>9</sup> The Commission should clarify its intent if such applications are to be licensed under existing TCP regulations.

<sup>10</sup> Proposed Decision, pp. 17-19.

carriers because, in order to secure a ride, a passenger must: (1) download a mobile app and agree to a TNC’s terms of service; and (2) input pickup and destination information.

Sidecar supports this interpretation of the prearrangement requirement. However, we note that the Proposed Decision does not consistently specify that a trip’s destination information is a necessary element of a “prearranged” ride. Specifically, Regulatory Requirement (b), which states that “TNC drivers may only transport passengers on a prearranged basis”<sup>11</sup> should be revised to conform with Finding of Fact 12 and the lengthy discussion contained in Section 2.2.3,<sup>12</sup> which make it clear that “prearrangement” requires a passenger to input information regarding trip destination as well as current location. To omit this requirement would be inconsistent with the idea that what a passenger is seeking to arrange (in advance) is a ride from one specific location to another, rather than arranging only a point of pick-up similar to a traditional on-demand taxi service. Furthermore, prearrangements by TNCs that fail to incorporate the necessary element of the passenger’s destination would conflict with the Commission’s goal by muddying the line between TNCs and on-demand dispatch services provided, for example, by taxi companies, which are subject to differing regulatory rules. Specific recommendations to clarify Regulatory Requirement (b) are provided in Appendix A.

### **C. TNCs Are Not Necessarily “For-Hire”**

We respectfully disagree with the Proposed Decision’s reasoning that TNC’s voluntary donation automatically triggers the for-hire provisions and renders TNCs “providers of for-hire transportation services” because their “intent is to conduct a *for-hire operation . . .*”<sup>13</sup>

First, Sidecar understands the predominant purpose of this rulemaking process to be about safety, and the focus on the TNC’s incentive or intention to make a profit fundamentally deviates from that purpose. Safety is not affected by whether a TNC is for profit or non-profit.

Second, the Proposed Decision offers little reasoning as to why a voluntary donation, intended by a passenger to cover the costs of the ride, paid through a third party information

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<sup>11</sup> Proposed Decision, p. 25.

<sup>12</sup> Proposed Decision, pp. 54 and 17-19.

<sup>13</sup> Proposed Decision, p. 20 (emphasis added).



platform, must render the driver of the ridesharing vehicle “for-hire.” The *Skate Park* Case cited in the Proposed Decision is distinguishable by its facts, because it was clear that the business owner specifically chartered a vehicle and its drivers. To hold that any business that derives a benefit from facilitating communications for ride-matching on its network or media would logically extend the scope of for-hire transportation service regulations to a wide range of businesses that never intended to nor are in fact providing for-hire transportation services, such as Craigslist, Twitter or Facebook. Sidecar encourages the Commission to recognize the important legal distinction between the encouragement of a service as an information conduit and a service that directs, manages, or controls employees, contractors, or agents using owned or leased vehicles.

Lastly, Sidecar notes that a Commission conclusion that TNCs and their drivers are participating in “for-hire” transportation may result in cancellation or coverage denial for ridesharing drivers’ personal insurance for participating in a “commercial” activity. California has previously exempted car sharing from the definition of “for-hire” activity pursuant to Insurance Code Section 11580.24 precisely to avoid cancellation of car sharers’ personal insurance or denial of coverage by their insurers. Sidecar urges the Commission to clarify its ruling is not intended to make a blanket determination that all drivers engaged in shared-transportation using TNCs are necessarily engaging in commercial activity outside the scope of their personal coverage. To hold otherwise would discourage innovation and undermine shared transportation’s potential to reduce traffic congestion, reduce green house gas emission, and increase service to historically underserved communities.

### **III. SAFETY REQUIREMENTS FOR TNCS**

The Proposed Decision orders licensed TNCs to comply with a list of safety requirements that includes, but is not limited to, minimum excess liability insurance coverage, driver training and vehicle inspections. These requirements put into the Commission’s new regulations Sidecar’s current safety practices and are appropriate safeguards of the public trust. However, certain of the safety requirements lack sufficient detail necessary for their consistent

and reasonable implementation. Specific language changes to the Safety Requirements detailed in Section 2.2.4 are proposed in Appendix A and are discussed generally in the subsections that follow in the order presented in the Proposed Decision.

**A. Excess and Contingency Liability Insurance.**

Safety Requirement (a) specifies that the TNCs shall maintain “excess” liability insurance coverage. Sidecar recommends eliminating the word “excess” in this context as it erroneously implies that such insurance is to apply only when the driver’s insurance is insufficient to cover the damage, but not where the driver’s insurance has been denied entirely. The remaining text of Safety Requirement (a) clearly indicates that the requisite policy is intended to operate as both an excess and contingency liability plan that covers bodily harm and damage to passengers and/or third parties.

**B. Criminal Background Checks.**

Safety Requirement (c) should be modified to replace the phrase “deemed to” with “that” so the phrase reads “[d]rivers convicted of felonies or misdemeanors that pose a threat to public safety . . . .” The phrase “deemed to” seems to require some third party finding or designation that the conviction pose such a threat, which seems unintentionally limiting. This requirement should also be revised to read that such drivers “. . . shall not be permitted to be a TNC driver” rather than the ambiguous prohibition against providing “TNC services.”

**C. Investigation and Resolution of Complaints.**

Revisions to this Safety Requirement (d) reflected in Appendix A are intended to reflect functions and limitations of existing app technology. For example, Sidecar is not easily able to put the requested language on the rider confirmation screen of its application but can include it on the emailed receipt, which is sent after every completed ride. Additionally, subsections (d)(2) and (d)(4) may be consolidated for ease of understanding.

#### **D. Driving Record Checks.**

Safety Requirement (e) should be revised to eliminate a potential internal inconsistency. In California, a driver receives points on his or her driving record when convicted of various traffic-related offenses. For example, a driver may receive two points for a hit-and-run offense. While Safety Requirement (e) specifically prohibits a TNC from permitting a driver with a hit-and-run (and other specific violations) to use its mobile platform, it also indicates that a driver may have two points on his record for “lesser offenses.”<sup>14</sup> We recommend that the last sentence of Safety Requirement (e) be revised to clarify that drivers may have a maximum of two points attributable only to 1-point offenses, which would ensure that other dangerous driving convictions, such as evading a peace officer and street racing,<sup>15</sup> would disqualify a driver and facilitate consistent implementation of the Commission’s intent. Additionally, as above with respect to criminal background checks, the vague reference to “TNC services” should be replaced by a specific prohibition that such drivers “. . . shall not be permitted to be a TNC driver.”

#### **E. Minimum Driver Age.**

Given that TNCs are required to perform background checks and collect motor vehicle records, and they and their insurance providers have strong incentives to reduce liability risks and premium costs, there is no reasonable justification to use the minimum age of 21 as an automatic and irrefutable proxy for “responsibility” and therefore to categorically exclude responsible drivers of the ages 18 to 20, as proposed by Safety Requirement (g). We suggest that if the Commission desires to impose a minimum age limit, 18 years, which is consistent with the draft age and a year and half after the minimum age to drive in California, is more appropriate. We further recommend that drivers of the ages 18, 19 and 20 must have at least two years of driving history before being authorized to be a TNC driver, instead of one year for drivers 21 and over.

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<sup>14</sup> Proposed Decision, p. 23.

<sup>15</sup> Veh. Code, §§ 2800.2, 23109(a).

**F. Vehicle Inspection.**

Safety Requirement (j) requires TNCs to conduct a 19-point inspection of all vehicles. Sidecar submits that the proposed inspection requirement is unnecessarily stringent. All California drivers, whether they participate in ridesharing or not, are required by California Vehicle Code section 24000 *et seq.* to maintain their vehicles in good working order. Thus, inspections by TNCs would be redundant of existing California rules enforced by the California Highway Patrol and other law enforcement. Moreover, Sidecar is concerned that an overly-burdensome vehicle inspection may discourage car sharing by casual drivers, including drivers who use Sidecar’s mobile app to share their car on a work commute or other casual ride. Therefore, we recommend that Safety Requirement (j) be eliminated, as indicated in Appendix A. In the alternative, we request that either a TNC or an authorized third party be allowed to conduct the vehicle inspection.

**IV. REGULATORY REQUIREMENTS**

The Proposed Decision orders licensed TNCs to comply with a list of regulatory requirements that includes, but is not limited to, transportation on a prearranged basis,<sup>16</sup> records inspection and reporting requirements. Certain of these requirements should be clarified and modified in order to be implemented effectively. Specific language changes to the Regulatory Requirements detailed in Section 2.2.4 are proposed in Appendix A and are discussed generally in the subsections that follow in the order presented by the Proposed Decision.

**A. DMV Employer Pull-Notice Program Participation.**

Regulatory Requirement (c) directs TNCs to participate in the California Department of Motor Vehicles (the “DMV”) Pull Notice Program in order to obtain timely notice of actions taken against a driver’s driving privilege. However, as the Proposed Decision itself concedes,<sup>17</sup> the DMV does not current permit Sidecar to participate in the program because Sidecar drivers are not Sidecar’s “employees.” Regulatory Requirement (c) should be

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<sup>16</sup> Please see discussion in Section II.B above regarding important clarifications to the prearrangement requirements.

<sup>17</sup> Proposed Decision, pp. 32-33.

modified to reflect this regulatory impediment and make it clear that TNCs will be required to participate in the Pull Notice Program only once the DMV authorizes such participation.

**B. Verification of Personal Insurance.**

Regulatory Requirement (d) requires TNCs to track each individual driver's insurance expiration date and to re-check each driver's personal insurance after initially verifying such coverage. These requirements are unnecessary and burdensome – especially as they apply to infrequent, casual carpooling drivers – as state law already requires drivers to have valid, up-to-date personal automobile insurance coverage, and TNCs are required to have in effect a \$1 million excess and contingent liability policy. Regulatory Requirement (d) should be eliminated, as set forth in Appendix A.

**C. Trade Dress.**

We understand that the goal of Regulatory Requirement (g) on trade dress is to enable passengers, government and airport officials and the public to identify a TNC driver. However, Sidecar is concerned that the term “consistent” to describe permitted signage or display imputes an unnecessary and unintended degree of inflexibility to use, for example, seasonal or special occasion signage that still contains the TNC logo and/or symbol. Eliminating the term “consistent” would mitigate this concern, but still accomplish the Commission's desire for “distinctive” display for purposes of identifying a TNC driver.

Additionally, the requirement that TNCs “file” a photograph of the trade dress with the Commission's Safety and Enforcement Division is unclear. Sidecar requests the ability to submit photos of trade dress by e-mail to a designated CPUC email address for ease of compliance, as set forth in Appendix A.

**D. Ratings and Principles of Non-Discrimination**

Sidecar wholeheartedly agrees with the Commission that the requirement that driver and passenger ratings should not be based on “unlawful discrimination” based on race, color and

other criteria.<sup>18</sup> Sidecar has long adopted such a prohibition in its Terms of Service. However, the inclusion of the “geographic endpoints” criterion in Regulatory Requirement (h) squarely conflicts with the premise of shared-transportation and ridesharing – the efficient and sustainable matching of rides so that drivers and passengers are aligned. It would be contrary to the goals of congestion-management and reducing the environmental impact of cars on the road if the Commission required drivers to drive to an “endpoint” in a different direction from the driver’s intended and desired destination. Additionally, the “geographic endpoint” criterion conflicts with one of Sidecar’s core principles, which is choice. Sidecar’s network is designed to preserve the freedom of choice in driver (as well as passenger) acceptance of a ride.

We understand that the Commission’s intent is to ensure that underserved communities are not subject to harmful discrimination. In keeping with that goal, Sidecar has several initiatives to promote and encourage shared-transportation and ridesharing in historically underserved communities. We believe that requiring the TNCs to establish such policies and incentives, together with the remaining prohibited criteria in Regulatory Requirement (h), accomplish the Commission’s intent without undermining the fundamental tenets of shared transportation. Suggested language is proposed in Appendix A.

## **V. THE RIDESHARE EXEMPTION**

Sidecar respectfully disagrees with the Proposed Decision’s conclusion that no TNC-facilitated ride may be exempt under any circumstance. Sidecar is concerned that this interpretation of the rideshare exemption under Public Utilities Code section 5353(h), which is circular in reasoning, overly-simplistic and unjustifiably restrictive, will have unintended negative consequences for transportation innovation.

### **A. Never a Common or Incidental Purpose?**

The Proposed Decision summarily finds that drivers using Sidecar and other TNCs are not ridesharing under the rideshare exemption<sup>19</sup> because Sidecar and other TNCs have used

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<sup>18</sup> Proposed Decision, p. 26.

<sup>19</sup> Proposed Decision, p. 38.

online advertisements promoting driver incentives intended to help overcome the historical reasons that ridesharing has failed to gain critical mass. To conclude, on that basis, that no drivers and passengers could have a common work-related purpose or that the ride could not be incidental to the driver's purpose, is an overbroad finding that is unnecessary and unwarranted.<sup>20</sup>

## **B. Compensation Does Not Mean “Profit.”**

The Proposed Decision concludes that no TNC-facilitated ride may qualify under the rideshare exemption so long as that TNC is making a “profit.” In so concluding, the Proposed Decision specifies that the recovery of actual costs incurred in owning and operating a vehicle authorized by law is limited to only those sharing a ride in a vanpool vehicle.<sup>21</sup> This statement is overbroad and should be qualified. Historically, carpoolers and ridesharers, regardless of vehicle used, have exchanged funds to cover the cost of parking, gas, tolls and other expenses related to the trip. The Proposed Decision's interpretation of ridesharing may be construed to prohibit ridesharers from exchanging monies even to cover the narrow and direct costs of a particular ride. As noted above in Section II.A, a rideshare facilitated through Craigslist or Facebook involving the exchange of gas money therefore could trigger regulation as a TNC.

The Proposed Decision equates “profit” as “compensation,” which is broadly construed as any economic benefit. Clearly, the plain meaning of profit is earnings above “operating costs.” The definitional question for the Commission is whether “operating costs” includes only the direct costs of the trip, the fully loaded costs of total vehicle ownership or somewhere between those poles.<sup>22</sup> While it is true there are drivers utilizing a TNC for “profit,” there are also a significant number of drivers using the platform to facilitate work-

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<sup>20</sup> Because Sidecar's network uniquely: (1) requires a passenger to input pick-up and drop-off locations before requesting a ride; and (2) gives the driver the choice to decide whether the shared ride is acceptable to him or her, it goes farther than other networks to encourage ridesharing for either common work-related purposes or incidental purposes. While Sidecar appreciates that its design or enforcement may have not gone far enough to qualify for a blanket rideshare exempting, we urge the Commission to preserve the ability of network operators to enforce future safeguards to ensure full compliance with the rideshare exemption.

<sup>21</sup> Proposed Decision, p. 38.

<sup>22</sup> We urge the Commission to reject the Federal per mile cap as this is biased against urban congested trips and undermines the efficiencies and incentives for shared transportation and rideshare.

related commuting or within the incidental purpose requirement of the rideshare exemption. The Commission’s rules should recognize the varied purposes of drivers and the potential “dual uses” of a TNC’s technology platform.

Sidecar encourages clarification on this issue to ensure that persons sharing rides who meet the work-related or incidental purpose requirements under the existing statutory exemption, whether through a TNC or by using other traditional methods, may compensate the driver for the ride without having to meet all the rules and regulations established for TNCs. Failure to do so undermines the utility and meaning of Public Utilities Code Section 5353(h) and may cause many persons who carpool to unwittingly violate the Commission’s rules.

## **VI. PROCEDURAL MATTERS**

### **A. The Second Phase of This Rulemaking Proceeding Should Be Limited In Scope With Respect To TNCs.**

The Proposed Decision opens a second phase in this proceeding to review the adequacy of existing regulations over limos and “other charter party carriers.”<sup>23</sup> Although Sidecar has no position on the propriety of opening such an inquiry applicable to classes of carriers that may include TCP license-holders and passenger stage corporations, we respectfully request the Commission clarify that – with the exception of considering whether updated regulations are needed to address access for passengers with disabilities<sup>24</sup> – the Commission does not intend to revisit the safety and regulatory regulations imposed in a first phase decision. A measure of regulatory certainty will be critical to allow the TNCs to devote resources to conforming their existing procedures, policies and programming with the Commission’s new licensing process and regulatory requirements. Recommended language to clarify the intended scope of a second phase in this proceeding is proposed in Appendix A.

### **B. Sidecar’s Transportation Access Plan.**

Ordering Paragraph No. 4 instructs TNCs to submit a plan to the Commission detailing plans to ensure that the TNC business model does not create a divide between the physically able

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<sup>23</sup> Proposed Decision, p. 3 and OP 3.

<sup>24</sup> Proposed Decision, p. 44.



and disabled communities. Sidecar wholly supports the intent underlying this directive and has been working to develop engineering solutions and outreach to address access. For example, with the help of members of the blind and low-vision community, Sidecar has redesigned its mobile app to be accessible to blind users.<sup>25</sup> Sidecar is also developing initiatives to encourage drivers with wheelchair-accessible vehicles to participate in the Sidecar community.

However, because different TNCs are likely to address their these issues differently, we recommend Ordering Paragraph No. 4 (and the text of the Proposed Decision on page 45) be revised to clarify that the Commission intends to require each TNC to submit its own plan – rather than for all of the TNC companies to try to coordinate to produce a single plan. This will encourage diversity and innovation in an area where the Commission has acknowledged that clear rules against discrimination do not provide an automatic or complete solution.

**C. Sidecar Would Appreciate the Opportunity to Assist Commission Staff in Developing the TNC Application Packet.**

The Commission intends to post a TNC Application Packet on its website within 60 days after the effective date of a decision adopted in this proceeding.<sup>26</sup> If it would help smooth implementation of the licensing application process, parties – particularly those who anticipate submitting TNC applications – might be afforded an opportunity to assist Commission staff by providing feedback or otherwise participating in the development of the Application Packet.

**D. All Pending Motions Should Be Deemed Denied.**

The Proposed Decision denies the Taxicab Paratransit Association of California’s (“TPAC”) “motion to compel production of insurance policies.” We understand the Proposed Decision to mean TPAC’s June 14, 2013 *Motion To Compel Responses To Discovery* but request that Ordering Paragraph No. 6 be revised to make it clear that the motion denied is not limited to the “production of insurance policies.” For avoidance of doubt, we suggest that “[a]ll pending motions that are not otherwise granted in this order are deemed denied.”

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<sup>25</sup> Sidecar notes that, unlike websites, there are no consistent blind or low vision accessibility standards for mobile apps. Rather, the “guidelines” that Apple and Google provide are general and loose suggestions that do not address apps with a high level of customization that is in the Sidecar app.

<sup>26</sup> Proposed Decision, OP 5.

## VII. CONCLUSION

Sidecar commends the Commission and its staff for balancing competing interests in this rulemaking and adopting new regulatory approaches, which the staff has referred to as a regulatory “third-way.” The Proposed Decision is a significant step in this direction, showing that regulation and innovation need not be a zero sum game and continuing California’s historical leadership in technology, business innovation and public policy. Sidecar urges policy makers to ensure that California’s regulatory environment will not only continue to keep pace with the torrid pace of technology change, but also will incorporate tech-driven innovations, such as open data sources, advanced data analysis techniques and public engagement through social media. We also urge the Commission to collaborate with the TNCs and other technology providers to enhance regulatory effectiveness and enable more systematic, effective monitoring of the efficacy and impacts of regulation.

The Proposed Decision represents the considerable efforts of ALJ Mason, the Commission’s Policy and Planning Division and all the parties to produce a workable regulatory way forward that protects public safety, while allowing innovation and technology to bring choice and convenience to the public. We commend the Commission on this substantial effort. We respectfully urge the Commission to adopt the Proposed Decision, with the modest changes recommended herein.

Respectfully submitted,

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