

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



November 4, 2021

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

Subject: TNC Access for All Advice Letter AL 6B

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Disposition of Filing (Approved, Rejected, Withdrawn, etc.)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 6 from San Francisco (SFMTA, SFCTA, SFMOD) and Disability Advocates on 12-10-2020. Uber replied to the protests 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](mailto: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 6B**  
**As of November 4, 2021**

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

Advice Letter Subject: **Offset for Q3 2020 in compliance with Decision 20-03-007**  
Division Assigned: Consumer Protection and Enforcement  
Date Filed: 11-20-2020

**Disposition:** **Approved**  
**Effective Date:** **11-04-2021**  
**Approved Offsets:**

COUNTY	APPROVED OFFSET AMOUNTS
CONTRA COSTA	\$30,236.90
ORANGE	\$8,278.34
RIVERSIDE	\$1,133.44
SAN MATEO	\$54,929.90
VENTURA	\$834.11
<b>TOTAL APPROVED</b>	<b>\$95,412.69</b>

CPUC Contact Information: [tncaccess@cpuc.ca.gov](mailto:tncaccess@cpuc.ca.gov)

TNC Contact Information: Stephanie Kuhlman  
[stephanie.kuhlman@uber.com](mailto: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) 6 on November 20, 2020 to request offsets against quarterly Access Fund payments for amounts it spent during the Third Quarter (Q3) of 2020 to improve wheelchair accessible vehicle (WAV) service. On December 10, 2020, the Disability Advocates<sup>1</sup> and San Francisco<sup>2</sup> filed separate protests. Uber filed supplemental AL 6A on January 12, 2021 removing its confidentiality request and complying with CPED staff's directive to submit unredacted data. On September 22, 2021, Uber filed supplemental AL 6B to remove counties that are not eligible for offsets.

D.20-03-007 requires a Transportation Network Company (TNC) to demonstrate the following to qualify for an offset in a geographic area in the third quarter of 2020 by providing the following required data and information in its quarterly advice letter filing: (1) presence and availability of WAVs, (2) improved level of service, (3) outreach efforts, (4) accounting of funds expended, (5) training and inspections, and (6) complaints related to WAV service. Table 1 below summarizes the evaluation criteria adopted in D.20-03-007:

Table 1: Criteria for Evaluating Offsets

Evaluation Criteria	Must Demonstrate	Satisfied By
<b>1. Presence and availability of WAVs</b>	(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
<b>2. Improved level of service</b>	Either the Level 1 (50%) or Level 2 (75%) Offset Time Standard for a quarter in a geographic area, and demonstrated improvement over the prior quarter's performance	Achievement of the Offset Time Standard <sup>3</sup>

<sup>1</sup> Disability Rights California, Disability Rights Education & Defense Fund, and the Center for Accessible Technology

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

<sup>3</sup> D.20-03-007, Ordering Paragraphs 2, 3, and 4

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
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Evaluation Criteria	Must Demonstrate	Satisfied By
<b>3. Efforts to publicize and promote available WAV services</b>	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
<b>4. Full accounting of funds expended</b>	Qualifying offset expenses are: (a) reasonable, legitimate costs that improve a TNC's WAV service, and (b) incurred in the quarter for which a TNC requests an offset, and (c) on the list of eligible expenses <sup>4</sup> attached as Appendix A	Submission of the relevant data
<b>5. Training and inspections</b>	(a) certification of WAV driver training completion within the past 3 years, <sup>5</sup> (b) WAV driver training programs used per geographic area, and the number of WAV drivers that completed WAV training in that quarter, and (c) Certification of WAV inspection and approval <sup>6</sup>	Submission of the relevant data
<b>6. Reporting complaints</b>	(a) number of complaints related to WAV drivers or services – by quarter and geographic area, and broken out by category <sup>7</sup>	Submission of the relevant data

As described in Table 1, the Commission adopted a specific qualifying 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 Offset Time Standard for improved level of service and submitted all the required data showing WAV presence and availability, outreach efforts, accounting of expended funds,**

<sup>4</sup> D.20-03-007, Appendix A

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

<sup>6</sup> 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.

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

## PUBLIC UTILITIES COMMISSION

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**training and inspections, and complaints related to WAV service, then it is eligible to receive offsets and its advice letter shall be approved.**

*Table 2: Interim WAV Response Times and Offset Time Standard*

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

Offset Time Standard	Offset Service	Offset Service
April 2020 until subsequent Commission decision	50%	75%

### **Protests to AL 6 and Uber's Reply**

On December 10, 2020, the Disability Advocates and San Francisco filed separate protests against Uber's AL 6. The Disability Advocates' protest is based on the grounds that (1) 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, and (2) the analysis, calculations, or data in the advice letter contain material errors or omissions. San Francisco's protest is based on the grounds that the relief requested is unjust and unreasonable.

Specifically, both Disability Advocates and San Francisco argued that Uber has failed to demonstrate (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, it argues, the offset requested by Uber is not authorized by the statute and must be disallowed. Further both protestants objected to Uber's confidentiality request for some information.

On December 17, 2020, Uber replied to the protests, and argued that both protests are "procedurally and substantively flawed." Uber claimed that AL 6 is consistent with the Commission's determinations in D.20-03-007 and the Legislature's intent behind SB 1376.

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
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Further, Uber argued that its request for confidential treatment is entirely consistent with the Commission's Resolution ALJ-388.

**Discussion****A. Disposition of AL 6B**

Uber's AL 6 requested offsets in Q3 2020 totaling \$967,904.26 in nine counties. After review of the offset eligibility requirements, Staff disallowed offset amounts in the counties of Alameda, Los Angeles, and Santa Clara due to a failure to show improvement in either Level 1 or 2 Offset Time Standard (OTS) percentages from the previous quarter (Second Quarter (Q2) 2020); in San Francisco County, staff disallowed the offset request due to Uber's failure to show improvement in Level 2 OTS percentage and failure to achieve the requisite minimum Level 1 OTS percentage of 50 percent.<sup>8</sup> Staff notified Uber to file a supplemental AL to remove these four counties from its offset request. On September 9, 2021, Uber filed supplemental AL 6B complying with Staff directive.

Ordering Paragraph 4 in D.20-03-007 provides improved level of service requirements for an offset request:

*To demonstrate improved level of service for offset eligibility, a Transportation Network Company (TNC) must demonstrate that it achieved either a Level 1 or Level 2 Offset Time Standard for a quarter in that implementation year. If a TNC received an offset in the prior quarter, the TNC must achieve an Offset Time Standard that exceeds the percentage achieved in the prior quarter in either, a Level 1 or a Level 2 Offset Time Standard.*

This means that a TNC must demonstrate first that it meets either the Level 1 or 2 response time benchmark for that county (first test), and second, it must show improvement in the OTS percentage from the previous quarter (second test). Table 3 and Table 4 below summarize the Q3 2020 response times and OTS percentages reported in each geographic area eligible for offsets based on the revised information in AL 6B.

Uber satisfies the first test as its response times in all counties meet either the Level 1 or 2 benchmark (see Table 3). Further, Uber also satisfies the second test as the Offset Time Standard in each county improved from the prior quarter (represented by the gray highlight in Table 4). Therefore, Uber has demonstrated improved level of service as required by OP 4 in D.20-03-007.

For the other evaluation criteria, Uber submitted all the required data and information for WAV presence and availability, outreach efforts, full accounting of funds expended, complaints related

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<sup>8</sup> Uber's Level 1 OTS percentage for Q3 2020 was 38.64% and 38.36% for Q2 2020. Although this represents marginal improvement, these OTS percentages are below the required minimum Level 1 OTS of 50%.

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



to WAV service, and training and inspections. Uber is in compliance with all the offset eligibility requirements under D.20-03-007. Therefore, Uber's AL 6B is approved, effective October 18, 2021.

Table 3: Uber's Level 1 and 2 Response Times (minutes) by County in Q3 2020

County	Benchmark (minutes)		Q3 2020 Performance (minutes)		Within Benchmark
	Level 1	Level 2	Level 1	Level 2	
CONTRA COSTA	25	50	18.92	22.0-25.23	Yes (Level 1 and 2)
ORANGE	25	50	8.77	12.92-13.68	Yes (Level 1 and 2)
RIVERSIDE	30	60	5.23	5.23-5.23	Yes (Level 1 and 2)
SAN MATEO	25	50	16.85	21.13-23.5	Yes (Level 1 and 2)
VENTURA	25	50	3.8	3.8-3.8	Yes (Level 1 and 2)

Table 4: Uber's Level 1 and 2 Offset Time Standards (percent) by County in Q2 and Q3 2020

County	Q2 2020 Performance (percent)		Q3 2020 Performance (percent)		Improvement
	Level 1	Level 2	Level 1	Level 2	
CONTRA COSTA	91.67	100	77.14	100	Yes (Level 2)
ORANGE	96.67	100	95	100	Yes (Level 2)
RIVERSIDE	100	100	100	100	Yes (Level 1 and 2)
SAN MATEO	85.71	99.05	85.96	100	Yes (Level 1 and 2)
VENTURA	-	-	100	100	Yes (no baseline)

## B. Protests Against AL 6

The protests over Uber's redaction of certain exemption request data submitted in AL 7 have been effectively addressed by Uber's supplemental AL 6B 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."

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**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
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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 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 6B follows the rules established by the Commission, and Staff determined that Uber satisfied the offsets requirements adopted in Decision D.20-03-007 as summarized in Table 1 above.