

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 6, 2021

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

Subject: TNC Access for All Advice Letter AL 8

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Disposition of Filing (Approved, Rejected, Withdrawn, etc.)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 8 from San Francisco (SFMTA, SFCTA, SFMOD) and Disability Advocates on 02-04-2021. Uber replied to the protests on 02-10-2021.

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, protests, and staff's disposition. If you have any questions on this matter, please contact CPED Staff via email at tncaccess@cpuc.ca.gov.

Sincerely,

/s/

Douglas Ito
Director, Consumer Protection and Enforcement Division

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**Advice Letter Status Certificate****Status of Advice Letter 8
As of December 6, 2021**

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

Advice Letter Subject: **Offset for Q4 2020 in compliance with Decision 20-03-007**
Division Assigned: Consumer Protection and Enforcement
Date Filed: 01-15-2021
Date Supplemental Filed: 11-19-2021

Disposition: **Approved**
Effective Date: **12-06-2021**
Approved Offsets:

COUNTY	APPROVED OFFSET AMOUNTS
ALAMEDA	\$5,504.75
LOS ANGELES	\$621,641.80
TOTAL APPROVED	\$627,146.55

CPUC Contact Information: tncaccess@cpuc.ca.gov

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

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Appendix: Staff Review and Disposition

Background

In accordance with D.20-03-007, Uber Technologies, Inc. (Uber) filed advice letter (AL) 8 on January 15, 2021 to request offsets against quarterly Access Fund payments for amounts it spent during the Fourth Quarter (Q4) of 2020 to improve wheelchair accessible vehicle (WAV) service. On February 4, 2021 the Disability Advocates¹ and San Francisco² filed separate protests and on February 10, 2021 Uber replied. On November 19, 2021, Uber filed supplemental AL 8A to remove the counties that were approved for exemption in AL 7 and update the total requested offset amount.

To qualify for an exemption in a geographic area, D.20-03-007 requires a Transportation Network Company (TNC) to file an advice letter demonstrating: (1) the presence and availability of WAVs, (2) improved level of service, (3) outreach efforts, (4) accounting of funds expended, (5) training and inspections, 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
1. Presence and availability of WAVs	(a) the number of WAVs in operation - by quarter and aggregated by hour of the day and day of the week, and (b) the number and percentage of WAV trips completed, not accepted, cancelled by passenger, cancelled due to passenger no-show, and cancelled by driver – by quarter and aggregated by hour of the day and day of the week	Submission of the relevant data
2. Improved level of service	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 ³

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

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

³ D.20-03-007, Ordering Paragraphs 2, 3, and 4

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Evaluation Criteria	Must Demonstrate	Satisfied By
3. Efforts to publicize and promote available WAV services	Evidence of outreach efforts such as a list of partners from disability communities, how the partnership promoted WAV services, and marketing or promotional materials of those activities	Submission of the relevant data
4. Full accounting of funds expended	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 ⁴ attached as Appendix A	Submission of the relevant data
5. Training and inspections	(a) certification of WAV driver training completion within the past 3 years, ⁵ (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 ⁶	Submission of the relevant data
6. Reporting complaints	(a) number of complaints related to WAV drivers or services – by quarter and geographic area, and broken out by category ⁷	Submission of the relevant data

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

⁴ D.20-03-007, Appendix A

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

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

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

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Table 2: Interim WAV Response Times and Offset Time Standard

Geographic Area/County	Level 1 – WAV Response Time (mins)	Level 2 - 2x 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 8 and Uber’s Reply

On February 4, 2021, the Disability Advocates and San Francisco filed separate protests against Uber’s AL 8. The Disability Advocates’ protest is based on the grounds that the relief requested would violate statute or Commission order, or is not authorized by the statute or Commission order on which the regulated entity relies. San Francisco’s protest is based on the ground that Uber’s request contains material errors.

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, the protestants believe that the offsets requested by Uber are not authorized by the statute and must be disallowed.

On February 10, 2021, Uber replied to the protests, and argued that both protests are “procedurally and substantively flawed.” Uber claimed that it fully demonstrated the presence and availability of WAVs, improved level of service, and reported outreach efforts as required by the Track 2 Decision. Further, Uber claimed that it has detailed each category of its qualified expenses in AL 8.

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**Discussion****A. Disposition of AL 8**

Uber's AL 8 requested offsets in Q4 2020 totaling \$639,057.06 in the counties of Alameda, Los Angeles, Orange, and Riverside. After review of the advice letter, staff informed Uber to remove Orange and Riverside from its request as these two counties were approved for exemption in AL 7. On November 19, 2021, Uber complied and filed supplemental AL 8A to update its original request. Staff approves the updated offset request amounts totaling \$627,146.55 in Alameda and Los Angeles as Uber has demonstrated it met the criteria for offset eligibility in these two counties.

Ordering Paragraph 4 in D.20-03-007 provides the 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 Offset Time Standard (OTS) percentage from the previous quarter (second test) if the TNC received an offset in that quarter. If the TNC did not receive an offset in that county in the prior quarter, then the TNC needs only to satisfy the first test.

Table 3 and Table 4 below summarize the Q4 2020 response times and OTS percentages reported in each geographic area (county) eligible for offsets based on the data submitted in AL 8. Of the four counties for which offsets are requested for in Q4 2020, Alameda, Orange, and Riverside received offsets in the prior quarter of Q3 2020, while Los Angeles did not receive offsets in Q3 2020. Therefore, both tests must be satisfied for Alameda, Orange and Riverside, while only the first test applies to Los Angeles.

Uber satisfies the first test for all four counties as the response times in these counties meet either the Level 1 or 2 benchmark (represented by the gray highlight in Table 3). Uber also satisfies the second test for the three counties that received offsets in Q3 2020 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.

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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 to WAV service, and training and inspections. Uber complies with all the offset eligibility requirements under D.20-03-007. Therefore, Uber's AL 8A is approved, effective December 6, 2021.

Table 3: Uber's Level 1 and 2 Response Times (minutes) by County in Q4 2020

County	Benchmark (minutes)		Q4 2020 (minutes)		Within Benchmark
	Level 1	Level 2	Level 1	Level 2	
ALAMEDA	25	50	27.6	29.0-30.0	Yes (Level 2)
LOS ANGELES	25	50	18.3	22.5-25.1	Yes (Level 1 and 2)

Table 4: Uber's Level 1 and 2 Offset Time Standards (percent) by County in Q3 and Q4 2020

County	Q3 2020 (percent)		Q4 2020 (percent)		Improvement
	Level 1	Level 2	Level 1	Level 2	
ALAMEDA	82.2	99.27	50.0	100	Yes (Level 2)
LOS ANGELES	- *	- *	79.6	99.3	Not applicable*

*Uber did not receive an offset for Los Angeles County in Q3 2020.

B. Protests Against AL 8

The issues raised in the protests cannot be addressed here. Section 5.1 under General Order 96-B, states that "the advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions."

Furthermore, Section 7.4.2 provides that "a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility."

The relief requested in the protests concerning Uber's failure to meet the threshold requirements for exemption in terms of (1) presence and availability of WAVs, (2) outreach efforts to promote its WAV service, and (3) full accounting of funds expended as required under SB 1376 raises 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 8 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.