

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Order Instituting Rulemaking on) R. 12-12-011
Regulations Relating to Passenger Carriers,)
Ridesharing, and New Online-Enabled)
Transportation Services)

Opening Comments
Submitted on Behalf of the California Airports Council

In accordance with the Administrative Law Judge’s Ruling providing for Opening Comments, dated May 10, 2013, the California Airports Council submits Opening Comments.

Introduction

The California Airports Council is (CAC) comprised of the 30 commercial service airports in California. The mission of the CAC is to promote awareness and understanding of the activities of commercial airports and the role they play in our state. Included within this mission is to advocate for public policy and regulation that preserves the safety and security of California’s commercial aviation infrastructure and that of our passengers and employees.

California commercial aviation activity is greater than any other single state, with over 170 million passengers passing through the state’s airports annually. California also is home to two of the nation’s 10 largest airports, Los Angeles International and San Francisco International.

California airports are most concerned about the safety and security of ground transportation service providers that operate at our state airports. Existing providers must comply with either PUC regulation and oversight or the regulatory structure of a municipal government. Our comments will focus on these considerations.

5.2(a) – Jurisdiction

What are the bases for the Commission’s jurisdiction over NOETS?

Among the chief tasks of California commercial service airports is to maintain the safety and security of the airport and its passengers. Safety and regulation is a multi-jurisdictional function, which includes the Federal Aviation Administration, the Transportation Security Administration, state agencies, including the Public Utilities Commission, as well as municipal government, local law enforcement and the local airport security apparatus.

With respect to ground transportation options for air travelers, airports rely in part on the regulatory structure of the CPUC for service providers to ensure drivers have successfully passed criminal background checks and drug testing and vehicles are inspected for safe operating condition. California airports believe the existing CPUC jurisdiction should be applied to NOETS service providers to ensure all ground transportation service providers satisfy the safety and security standards utilized currently by the Commission.

The Commission currently administers and enforces the Charter-Party Carriers' Act (Public Utilities Code §5351 et. seq.). Generally, this Act provides the parameters in which charter party carriers operate in California. This Act also provides a measure of security and monitoring that is of high value to airports to ensure ground transportation providers authorized as charter party carriers conform to all of the applicable vehicle and driver safety standards required to be permitted to operate at an airport.

If a NOET operates in a manner consistent with a charter party carrier definition, the California Airports Council asserts they should fall under the jurisdiction of the Commission. This may require modification of the statute to ensure clarity and eliminate ambiguities. If a NOET utilizes private vehicles but includes a passenger–driver payment transaction before, during or after the service is provided, the CAC asserts this NOET does not meet the exemption criteria of PUC 5353(f), because the transaction is of a commercial nature.

In addition, for a NOET that operates in a manner consistent with the definition of PUC §5355.5(a) or 5360, the CAC believes the NOET should fall under the jurisdiction of the Commission.

**5.2(a)(iv) – Jurisdiction
Should Article XII, the Passenger Charter-Party Carriers Act,
or any other statute, rule, or order be modified to enhance
or clarify the Commission's jurisdiction over NOETS?**

The CAC believes that PUC §5360.5(b) should be amended to expand the statute to encompass modern technological applications to specify that "pre-arranged" transportation can be executed by written contract, telephone or mobile device.

An example of a suggested amendment would be:

PUC §5360.5(b)

(b) For purposes of this section, "prearranged basis" means that the transportation of the prospective passenger was arranged with the carrier by the passenger, or a representative of the passenger, either by written contract, or telephone, or *mobile device*.

5.2(c) – Jurisdiction

How should the Commission exercise its existing jurisdiction to protect public safety and encourage innovation?

The CAC believes that technological innovation has already occurred, will continue to evolve and should not be discouraged. However, in order to maximize public safety consistent with the PUC's mission, innovative applications of technology in operation must be held to the same public safety standard as existing ground transportation service providers. This may be accomplished by extending the Commission's existing jurisdiction to providers of innovative ground transportation services.

5.3 – Public Safety

5.3(b) – Public Safety – What are the likely consequences of public safety, with special attention paid to avoiding “unanticipated consequences” if the Commission declines to exercise its jurisdiction?

If the Commission declines to exercise its jurisdiction in this instance, the CAC believes there could be substantial unanticipated consequences for the public safety of airports and passengers. Absent PUC oversight, airports and passengers will not have the same certainty that exists today with ground transportation providers that vehicles are inspected and maintained in sound operating condition and that drivers are properly licensed and have successfully passed criminal background checks and illegal drug testing. The CAC does not believe a lesser level of regulation and potentially diminished overall safety compliance for some ground transportation service providers versus others is a consequence that is good for Californians nor is it a consequence the Commission would intend.

5.4 – Insurance and Background Checks

The CAC believes all existing insurance and background check requirements of ground transportation providers who currently service airports should be required of NOETS who intend to service airports. Insurance coverage protocols should be extended to NOETS or modified for application to NOETS in the most business efficient manner possible. Any statutes or regulations in need of modification in order to apply existing insurance and background check requirements to NOETS should be developed and proposed for enactment.

Conclusion

California's commercial aviation infrastructure represents tens of billions of dollars worth of investment by local communities and preserving that infrastructure must be a paramount goal of federal, state and local government. As new technologies emerge to bring products and services to consumers in new ways, airports and others must adapt to accommodate the use of technology, while maintaining procedures and controls to ensure the safety and security of passengers. The CAC believes companies that emerge to provide an existing service in a new manner must be held accountable by government so that the aforementioned goal of aviation system safety and preservation is maintained. Any erosion of regulatory and security protocols for airports and ground transportation service providers in favor of technological innovation alone is not a practical outcome for California. The CAC urges the Commission to extend their regulatory role to NOETS in order to accomplish these necessary goals.

Dated: June 3, 2013

Respectfully Submitted,

By: _____/S/_____

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