

Agenda Item#

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**Additional material provided
after initial posting of
supporting material but prior to
meeting.**



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ATTN: Jennifer Hill
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May 10, 2021

RE: Docket Number 21-04031
Lyft, Inc. Comments on Proposed Amendments to NAC 706A Regarding TNC
Fares During an Emergency

Dear NTA Commissioners,

Lyft, Inc. (“Lyft”) appreciates the opportunity to comment on the Nevada Transportation Authority’s (“NTA”) proposed revisions to Nevada Administrative Code (“NAC”) Chapter 706A related to fares charged by Transportation Network Companies (“TNCs”) during an emergency. We thank the NTA for considering our suggestions, which are explained in greater detail below.

The revisions to NAC are being considered in response to the unprecedented impact the COVID-19 pandemic has had on TNCs, TNC passengers and TNC drivers in Nevada. While economic recovery in recent months has driven increased demand for transportation services in the state, TNCs have struggled to meet the needs of passengers due, in part, to pricing constraints placed on TNCs during the ongoing state of emergency.¹ Specifically, TNCs have been unable to adjust ride fares to meet current market conditions due to the prohibition on charging fares in excess of the TNC’s base rate found in NAC 706A.290.2.

Lyft commends the NTA for recognizing the impact of this issue and appreciates the Commission’s leadership and collaboration in working to find a regulatory solution. Lyft believes that the current draft of the proposed amendments is a good start toward resolving the issues that the industry is currently facing, while ensuring that consumers remain protected during a state of emergency as intended when the regulations were originally drafted.

¹[https://gov.nv.gov/News/Emergency_Orders/2021/2021-04-01_-_COVID_19_Emergency_Declaration_Directive_043_\(Attachments\)/](https://gov.nv.gov/News/Emergency_Orders/2021/2021-04-01_-_COVID_19_Emergency_Declaration_Directive_043_(Attachments)/)



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We propose the below revisions to clarify any new requirements introduced by the proposed amendments, and to better enable TNCs to meet the needs of passengers and drivers:

1) Revise NAC 706A.290 to state:

1. Each transportation network company shall notify the Authority of the base rates currently in use by the company, and file with the Authority any new base rates prior to their utilization.
2. During an emergency, as defined in NRS 414.0345, a transportation network company shall not charge a fare in excess of the base rate on file with the Authority on the date of the emergency.
3. ***The prohibitions outlined in section 2 are only in effect for the first seven calendar days after the declaration of emergency as defined in NRS 414.0345.***
4. ~~***All addition revenue generated by the increased fare in excess of the base rate must be paid directly to the driver who provides the transportation services which are subject to the increased fare.***~~

Section 4 should be deleted from the proposed amendments. As drafted, this section could be interpreted to constrain TNC pricing and a TNC's ability to utilize revenues generated therefrom to offer competitive ride prices, reduce rider wait times and maximize utilization of the platform, even when there is no state of emergency. As the intent of these proposed amendments is to address the issue of TNC fares *during a state of emergency*, any amendments that would have broader implications should be removed.

If the NTA declines to remove Section 4 in its entirety, it should clearly state that this requirement is to apply only during a state of emergency as defined in NRS 414.0345. Lyft also respectfully suggests amending the language in Section 4 to provide flexibility as to how fares collected in excess of the base rate on file may be paid to TNC drivers:

4. ***During an emergency as defined in NRS 414.0345, ~~a~~All additional revenue generated by the increased fare in excess of the base rate must be paid ~~directly to the drivers~~ who use the transportation network company's digital network to provides ~~the~~ transportation services ~~which are subject to the increased fare.~~***

Lyft's predictive analytics and dynamic pricing algorithms allow Lyft to align driver incentives to encourage drivers to be available, at the right times, in areas of high demand. This helps provide drivers with potentially higher earning opportunities by allowing them to maximize their earnings per hour, which can elevate driver satisfaction, increase supply in peak hours and improve the overall efficiency of the marketplace. Fares collected by TNCs in excess of the base



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rate may be distributed to drivers throughout the region in the form of driver bonuses and incentives designed to get drivers on the road during periods of high demand. This type of pricing flexibility allows for TNCs to efficiently incentivize drivers to serve passenger demand and should be preserved by any revisions to NAC 706A.

Lyft thanks the NTA for consideration of these comments and looks forward to continuing to work together in this rulemaking process. Please contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Gallagher". The signature is fluid and cursive, with a large initial "E" and "G".

Elizabeth Gallagher
Manager, Regulatory Compliance

Rasier, LLC
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Alexander J. Larro
Regulatory Counsel
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May 12, 2021

Via Email

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***Re: Docket Number 21-04031
Rasier, LLC's Comments Regarding Proposed Amendment to NAC 706A.290***

Dear Commissioners:

In response to the Nevada Transportation Authority's ("NTA") May 13, 2021 Workshop to Solicit Comments on Proposed Regulations, Rasier, LLC ("Rasier") submits the following comments, including additional proposed amendments to NAC 706A.290.

Under the existing language of NAC 706A.290, transportation network companies ("TNCs") are prohibited from increasing fares above the "base rates" on file during a state of emergency. During the ongoing COVID-19 pandemic and the resulting state of emergency in Nevada, this has meant that TNCs have been restricted in their ability to implement dynamic pricing that is responsive to real-time rider demand and driver availability. As the NTA is aware, as the state of emergency has now lasted for well over a year, and as Nevada has continued its safe reopening, this restriction has inadvertently contributed to significant problems for rideshare availability and reliability. As the demand for rideshare services has increased in recent months, both riders and drivers have been severely adversely impacted. The NTA's proposed amendments to NAC 706A.290 to allow surge pricing and other price increases during a long-term state of emergency (*i.e.*, an emergency lasting over seven days) are an important step in the right direction to resolving these problems, and Rasier applauds the NTA's leadership in exploring a solution.

For the purposes of clarifying the proposed amendments, and to better meet the needs of both riders and drivers during a declared state of emergency, Rasier asks that Section 4 be deleted from the proposed amendments. In addition to dictating the terms of a TNC's pay to drivers for completing individual trips arranged on the company's platform in a manner that may conflict with TNCs' well-established pricing and incentives processes, Section 4, as drafted,

could be interpreted as imposing those requirements even during periods when there is no state of emergency in effect. As such, Rasier respectfully requests that Section 4 be removed.

Alternatively, should the NTA decline to delete Section 4 from the amended regulation, Rasier proposes the following additional amendments for the NTA's consideration, which will both clarify when the requirement in that section applies and provide TNCs with the flexibility to comply with the proposed regulation utilizing existing pricing processes, dynamic pricing, and incentives algorithms:

1) Revise NAC 706A.290 to state:

1. Each transportation network company shall notify the Authority of the base rates currently in use by the company, and file with the Authority any new base rates prior to their utilization.
2. During an emergency, as defined in NRS 414.0345, a transportation network company shall not charge a fare in excess of the base rate on file with the Authority on the date of the emergency.
3. *The prohibitions outlined in section 2 are only in effect for the first seven calendar days after the declaration of emergency.*
4. *If an increased fare is charged following the first seven calendar days after the declaration of the emergency, ~~All additional revenue generated by the such increased fare in excess of the base rate must be used to fund incentives or other payments paid directly to the drivers who provides the transportation services arranged through the transportation network company's digital network or software application which are subject to the increased fare.~~ The requirement in this section 4 will remain in effect until the state of emergency is terminated.*

[Rasier's proposed additions in blue, bold italics and proposed deletions in red strikethrough]

Rasier's existing dynamic or "surge" pricing algorithms allow Rasier to address both rider demand and driver availability imbalances in real time. This allows Rasier to activate driver-side surge incentives in response to increased demand for rides at a given time in a specific location. Depending on the marketplace dynamics, what drivers receive in surge does not necessarily match what the rider pays in surge on a given trip. This surge model was developed based on driver feedback with the goal of making it easier for drivers to attain surge on a more consistent, predictable basis. In addition, surge and other driver incentives can help alleviate ride availability and reliability issues during busy times in busy areas and restore balance to the marketplace.

Rasier's proposed amendments will provide TNCs flexibility to implement these well-established dynamic pricing and incentives processes and, at the same time, ensure that all additional revenue generated from increased fares during the state of emergency will go to drivers who use a TNC's platform. The amendments will also allow TNCs to quickly and flexibly address driver earnings concerns, as well as allow TNCs to more effectively incentivize drivers to meet rider demand and maximize marketplace efficiency.

Finally, Rasier's proposed amendments also clarify that the requirement outlined in Section 4 applies only during the period in which the declared state of emergency remains in effect (beginning seven calendar days after the emergency was declared), and it ceases to apply once the emergency has been terminated.

Rasier appreciates the NTA's consideration of these proposed amendments and thanks the NTA for its continued leadership in addressing this issue.

Respectfully submitted,

/s/ Alexander J. Larro

Alexander J. Larro
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