Presentation for Public Hearing

March 1, 2023

NYC
Taxi & Limousine Commission

DRIVER PAY BACKGROUND

- In 2018:
  - 85% of drivers were earning less than minimum wage
  - 80% of drivers bought their vehicle to be an FHV driver, taking on significant personal expense and risk
  - Driver earnings were declining
- In response, TLC adopted rules establishing minimum per-trip payments for trips dispatched by high-volume companies (currently Lyft and Uber)
- After Lyft unsuccessfully sued to stop the rules, they went into effect in February of 2019

THREE PARTS OF THE DRIVER PAY FORMULA

- Time: the per minute rate
  - Take home pay
- Distance: the per mile rate
  - Driver expenses
- Down time: the utilization rate
  - Percentage of time drivers have a passenger

THE FORMULA AND HOW IT IS APPLIED

$$\frac{\text{per mile rate} * \text{trip miles}}{\text{utilization rate}} + \frac{\text{per minute rate} * \text{trip minutes}}{\text{utilization rate}} = \text{driver pay}$$

Sample trip of 7.5 miles and 30 minutes:

$$\frac{\$0.762 * 7.5 \text{ miles}}{58\%} + \frac{\$0.327 * 30 \text{ minutes}}{58\%} = \$26.76$$

INFLATION INCREASES

- The existing rules also include inflation adjustments for both the per minute and per mile rates based on the consumer price index (CPI) for the New York City area
- TLC has increased the rates three times since 2019:
  - 2020: 1.46%
  - 2022: 5.30%
  - 2023: 6.39%

BACKGROUND FOR CURRENT PROPOSAL

- Between 2018 and 2021, the increase in driver expenses was roughly equal to the increase in general inflation, so the CPI inflation adjustments were adequate to account for drivers' increased expenses
- When inflation began to increase drastically in 2022, driver expenses increased even faster than inflation
  - Very high gas prices and vehicle expenses
- When driver expenses increase more than general inflation, drivers are stuck covering the difference
- Uber adopted a gas surcharge everywhere in the United States except NYC
  - They said the general inflation adjustment was enough; now they said after the fact that TLC should have adopted a temporary surcharge

2022 DRIVER PAY RULEMAKING

- TLC hearing in May 2022: drivers and stakeholders testified about their experience with higher expenses
- In November 2022, TLC adopted rules to increase the per minute rate (take home pay) based on general inflation, and increase the per mile rate (expenses) based on a component of the CPI that relates to transportation costs
- Uber sued to stop the rate increases
- Judge ruled that though the case “appears faintly ridiculous,” a “legal technicality” requires TLC to further explain its reasoning in adopting proposed increases to the pay rates and urged TLC to do so
- TLC is now proposing an increase, with more detailed explanation, to account for drivers’ increased expenses

TRANSPORTATION INDEX PROPOSAL

- After researching several options, hearing from industry stakeholders including driver groups and the high-volume companies, and considering alternatives, TLC is proposing using the Transportation component of the CPI for the New York City area to increase the per mile rate
- This Transportation Index covers transportation-related expenses so it better captures how much driver expenses have increased
- The Transportation Index increased by 20.71% from 2018 to 2022, so TLC is proposing an increase in the original per mile rate by that amount
  - For standard trips: increasing from $0.631 to $0.762 per mile
  - WAV and out-of-town rates would also be increased by 20.71%

IMPACT OF RATE CHANGE PROPOSAL

Sample trip of 7.5 miles and 30 minutes:

$$\frac{\$0.762 * 7.5 \text{ miles}}{58\%} + \frac{\$0.327 * 30 \text{ minutes}}{58\%} = \$26.76$$

- Along with the general CPI increase from February:
  - Increase of $2.16, or 8.78%, from the March 2022–January 2023 rates
  - Increase of $3.76, or 16.35%, from the original rates effective in 2019

UTILIZATION RATES AND "LOCKOUTS"

- Percentage of time drivers for a company have a passenger
- Ensures that drivers are indirectly compensated for time waiting for trips or on their way to pick up passengers
    - Company gets drivers fewer trips → have to pay more per trip to compensate
- Uber and Lyft have chosen in the past to lock drivers out as a response to avoid having to compensate drivers for all their downtime
- Companies locking drivers out has a significant negative impact on drivers
- Companies continue to threaten driver lockouts because they don't want TLC to use utilization rates to require higher driver pay
- TLC has never forced, and is not proposing to force, the companies to lock drivers out–that is and will remain their choice

IMPACT OF UTILIZATION

- Sample trip at different utilization rates:
  - With 58% utilization: $26.76
  - With 54% utilization: $28.75
  - With 50% utilization: $31.05
  - With no utilization component: $15.53
- If TLC does not start measuring utilization, companies could continue to pay drivers at the 58% rate even if their real rate is much lower: fewer trips and less pay per trip, a lose-lose for drivers
- If TLC removed utilization from the formula entirely, companies could cut driver pay almost in half

UTILIZATION RATE PROPOSAL

- Rather than apply specific percentages to each company, the high-volume companies together would have to stay above a floor of 56%
  - If the industry stays above the floor, everyone would get credit for 58%
  - If they fall below the floor, their actual rate would be the applied rate
- TLC would give companies frequent, regular updates on the actual rates as an industry and as individual companies
  - We do not want one company to pull the industrywide rate down/up
- Ensures drivers get enough trips and are adequately compensated per trip
- The companies have been over 56% without locking drivers out
  - If they lock drivers out, it is purely their choice: trying to pay drivers less per trip while giving drivers fewer trips

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