

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION
RESOLUTION APPROVING A PILOT PROGRAM TO ALLOW LICENSED E-HAIL APPS
TO OFFER FLEXIBLE FARES IN TAXICABS

March 29, 2018

The New York City Taxi and Limousine Commission (the “Commission” or “TLC”) hereby approves by resolution (“Resolution”) a pilot program, pursuant to section 2303(b)(9) of the New York City Charter and section 52-27(a) of the Commission’s rules, to test and evaluate the feasibility of licensed E-Hail Application companies offering taxi fares other than the metered fares defined under section 58-26(a) of the Commission’s rules (“Pilot Program”). This Pilot Program will provide the taxi industry the opportunity to adopt and evaluate some of the same upfront pricing structures that exist in the For-Hire Vehicle (“FHV”) industry. This evaluation will include effects, if any, of the Pilot Program on factors including driver income, variations in fares and areas of the City served, taxicab utilization, passenger and driver experience, and feasibility for E-Hail Application providers.

Through its observation of New York City’s for-hire industry and the medallion fare structure in other jurisdictions, TLC recognizes that passengers appreciate upfront pricing. In yellow taxis, the taximeter provides passengers a set price structure, with the fare determined at the end of the trip based on the trip duration and distance. By contrast, many FHV companies offer binding, upfront fares based on an estimate of duration and distance. Fare quotes make it easier for passengers to compare prices between services and passengers enjoy the certainty of knowing the final price before they get into a vehicle. However taxis are unable to attract passengers by offering upfront fare quotes because of the metered fare requirement.

In January 2015, the Commission adopted rules licensing smartphone applications that allow passengers to arrange on-demand yellow taxi and green Street Hail Livery (“SHLs”) service through an electronic hail application (“E-Hail apps”). E-Hailing allows passengers and drivers to find each other more efficiently. Under current regulations, if E-Hail app companies wish to charge passengers directly for the ride, they must integrate with the taximeter and other in-vehicle technology in order to calculate the fare and process the payment. Companies offering similar services in the FHV industry are not subject to the legal and technical requirements of integrating with a taximeter. Under this Pilot Program, participating TLC-licensed E-Hail app companies will be permitted to offer fares to taxicab and SHL passengers other than those calculated by the taximeter (“Flex Fare”). To protect passengers, E-Hail app companies must provide an upfront binding fare when a passenger requests a taxi. Other than the changes to the fare structure and payment process, passengers will be afforded the same rights set forth in the Medallion Taxicab Passenger Bill of Rights.

This pilot does not apply to street-hails. Those trips will still be subject to the Taxicab Rate of Fare pursuant to section 58-26 of the Commission’s rules. Additionally, E-Hail app companies will be required to provide all of the same trip data that the TLC receives from street-hail trips.

Any entity that has a TLC-issued E-Hail license can join the pilot. Currently there are four licensed E-Hail app companies but any company is free to apply for an E-Hail license and

participate in the Pilot. Through this resolution, the Commission authorizes E-Hail licensees to offer pricing options outside the metered rate-of-fare in yellow taxicabs and green street-hail liveries, subject to the conditions below.

Pursuant to Section 52-27 of TLC Rules, approval of this Resolution is subject to the following:

1. Commencement and Duration:

- a. The Pilot Program will commence on the date on which the first Participant's application is approved by the Chair and will continue for twenty-four consecutive months thereafter.

2. Pre-Qualification Conditions

- a. Each Participant must possess a valid TLC E-Hail License and be accepted into this Pilot Program prior to offering Passengers Flex Fares.
- b. Pursuant to Section 52-28(a) of TLC Rules, each Participant in the Pilot Program must enter into a Memorandum of Understanding ("MOU") with the Chair on behalf of the Commission, which obligates the Participant to adhere to all requirements of this Resolution and sets forth additional specifications for each requirement. This Resolution contains a summary of the major MOU terms but does not include each and every term. The MOU must not conflict with any provision of this Resolution.

3. Means of Public Notice

- a. Notice of opportunity to participate in the Pilot Program will be published in the City Record and on the Commission's website.

4. Application

- a. The Commission will begin accepting applications for participation in the Pilot Program immediately after a template MOU setting forth the specific terms of participation is published on the TLC website.
- b. The Commission will accept applications throughout the Pilot Program, with authorization to participate in the Pilot Program ending either when the Pilot Program is terminated entirely or as to a particular Participant, or when the term of the Pilot Program has expired.
- c. Each candidate applying to participate in the Pilot Program must:
 - i. Submit a Rate Schedule, subject to approval by the Chair, outlining the manner in which the E-Hail App will calculate fares, including the rate of fare it will use, any variable or surge pricing policies, the breakdown of surcharges

(no-show fees, cancelation fees, etc.) and any other fees charged to the passengers.

- ii. Submit a complete Fee Schedule for all fees charged to drivers for use of the E-Hail App, including how drivers will be paid for Flex Fares.
- iii. Submit documentation demonstrating adherence to following requirements for participation in the Pilot Program:
 1. The Participant's E-Hail App must provide passengers an upfront, binding fare quote prior to dispatching a trip.
 2. The Participant's E-Hail App must provide for E-Payment.
 3. All Flex Fares charged to passengers must be paid via E-Payment through the Participant's E-Hail App.
 4. The Participant's E-Hail App must give passengers the ability to tip Drivers through the E-Hail App.
 5. The Participant must collect and encourage feedback from passengers and drivers concerning the Pilot.
 6. The Participant must manage data it collects as an E-Hail App Provider licensed by TLC and as a participant in this Pilot Program in accordance with the Information Security and Use of Personal Information Policy it has on file with the TLC.

5. Selection

- a. Selection of Participants will be made by the Chair.
- b. Criteria for selection will include testing with regard to technical, security, data, accuracy, reporting, and privacy requirements as described in this Resolution, demonstrated capacity to deliver the proposed service, and ability to meet the requirements set forth in this Resolution and the MOU.
- c. The Chair may ask any candidate to supplement a proposal as necessary to complete the evaluation of proposals and selection of Participants.
- d. In addition to the initial functionality, security, accuracy, and safety evaluation and testing performed by the Commission prior to acceptance into the Pilot Program, Participants must ensure that during implementation of the Pilot Program, their E-Hail App can be inspected and accessed by the Commission, and shall cooperate with the Commission in any demonstration and testing of the E-Hail App by TLC staff.

6. Termination

- a. If the Chair determines that a Participant has violated or not complied with any provision of this Resolution or the MOU, it may immediately terminate approval to participate in the Pilot Program.
- b. If, during the course of the Pilot Program, a Participant no longer possesses a valid TLC E-Hail License, the Chair will immediately terminate that Participant's approval to participate in the Pilot Program.
- c. If, during the course of the Pilot Program, a Participant acts in a way that is not in the best interest of the drivers or passengers, or fails to adhere to other terms approved and set forth in Section 4 of this Resolution, the Chair may immediately revoke that Participant's approval for participation in the Pilot Program.
- d. The Chair can cancel the Pilot Program for any reason, including if it determines that the Pilot is having an adverse impact on drivers or the riding public.

7. Damages

- a. Participants shall be responsible to pay vehicle owners, drivers, other participating TLC licensees, passengers and the TLC, restitution, damages, and/or liquidated damages, as applicable, for any harm caused by use of the E-Hail app during the duration of the Pilot Program, as specified in the MOU.

8. Indemnification

- a. Each Participant is responsible for the conduct of its employees, contractors and agents, and must familiarize each with relevant rules and regulations.
- b. Each Participant must defend, indemnify and hold harmless the City of New York, its officers and employees from all claims arising from its participation in the Pilot Program.

9. Reporting and Evaluation

- a. Participants must collect, transmit, and retain the same data points that are provided to the Commission through the TPEP providers, as defined in section 75-25(c)(2) of the Commission's rules and in accordance with the MOU.
- b. Participants must continue to collect, transmit and retain the data points required of all licensed E-Hail app providers, pursuant to section 78-21(c)(1) of the Commission's rules and in accordance with the MOU.

- c. Participants must submit a report to the Commission every month summarizing all feedback, including complaints and compliments received from passengers and drivers.
- d. TLC staff shall prepare and transmit to TLC Commissioners semi-annual reports on the results of the Pilot Program. Reports will evaluate the effect of Flex Fares on:
 - i. Driver income,
 - ii. Taxicab utilization,
 - iii. Geographical distribution, and
 - iv. Driver cancelations and other driver behavior.
- e. The final report, including data for the period up to and including the ending date of the Pilot Program, will include findings based on the entirety of the Pilot Program and a recommendation as to whether or not to continue the program or undertake rule-making for next steps for staff or Commission action. The final report will be provided to the Commission within 4 months of the conclusion of the Pilot Program. If the recommendation is to undertake rule-making, the Commission will initiate rule-making within 12 months following submission to the Commission of the final report.

10. Exemptions

- a. For the purposes of this Pilot, any and all rules regarding the following may be satisfied by the use of an E-Hail Application provided by an approved Participant pursuant to the terms of this resolution and the MOU:
 - i. 58-26 – Metered rate of fare
 - ii. 75-25(a)(2)(v) - Passenger and driver receipts for E-Hail fares,
 - iii. 75-25(n) - E-hail application integration with TPEP
 - iv. 78-15(b) - Maximum allowable fares charged for an E-Hail,
 - v. 78-17(a)(3) - Driver payments for E-Hail fares,
 - vi. 78-17(b) – Trip data submission from E-hail application to TPEP
 - vii. 78-21(a)(3) – E-payment integration with TPEP
 - viii. 78-21(b) - TPEP and LPEP integration,
 - ix. 78-21(c)(2) – E-hail application data transition to TPEP
 - x. 80-16(b) - Change of destination
 - xi. 80-17(a) - Overcharge of approved rate of fare
 - xii. 80-17(k)(3) - E-Payment restrictions to metered fares
 - xiii. 80-20(a)(4) – Ask destination in advance
 - xiv. 80-25 – Logging into TPEP/LPEP
 - xv. 82-26 – Metered rate of fare

11. Compliance

- a. Participant must comply with all applicable state, federal and local laws, including but not limited to Occupational Safety and Health Administration (OSHA) standards

and requirements and, unless otherwise provided herein, TLC rules, all laws regarding workers compensation, disability benefits and tax withholding, and must pay all fees and fines owed to state, federal or local government jurisdictions when they are due. Section 10, above, provides the only exemptions pertaining to this compliance section.

- b. Participant must not file with the Commission any statements that he or she knows or reasonably should know to be false, misleading, deceptive or materially incomplete.
- c. Participant must not accept, request, give or offer gifts or gratuities to or from a licensee for the purpose of violating any of the requirements of the Pilot Program or applicable provisions of state, federal and local law, and must report to the TLC and the New York City Department of Investigation any request or offers for the same.
- d. Participant must not commit fraud, misrepresentation and/or larceny, willful acts of omission and/or commission; and must not act against the best interests of the public, including but not limited to acts or threats of harassment, abuse, use of physical force, or failure to cooperate with law enforcement or the Commission.
- e. Participant must notify the TLC in writing of any suspension or revocation of any license granted to the Participant by any local, state or federal agency.
- f. Participant must inform the TLC if it is required to make disclosures under State or federal law regarding security breaches, including the New York State Information Security Breach and Notification Act (General Business Law section 899-aa).

12. Safety Evaluation

- a. No safety evaluation of the Pilot Program will be required.