BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Establish Policies, Processes, and Rules Regarding Autonomous Vehicle Passenger Transportation Service	Rulemaking 25-08-013 (Filed August 28, 2025)

REPLY COMMENTS OF TESLA, INC. ON THE EMAIL RULING PROVIDING PREHEARING CONFERENCE QUESTIONS FOR PARTIES

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In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission ("CPUC" or "Commission"), and the Senior Administrative Law Judge's January 12, 2026, Email Ruling Party Responses to Questions from January 6, 2026, Email Ruling, Tesla, Inc. ("Tesla") respectfully submits the following responses for the record.

I. Comments

1. Safety and Reliability Concerns

As the CPUC points out, on December 20, 2025, there was a widespread power outage in San Francisco that caused Waymo's autonomous vehicles (AVs) to stop either in traffic lanes or in the middle of intersections; to reiterate, Tesla's ADAS-equipped TCP vehicles were not impacted by the outage and completed all rides that day without interruption. In its comments, Waymo characterized the situation as a "novel challenge," particularly since Waymo AVs are designed to request confirmation from Remote Assistance ("RA") in blackout conditions to verify that it is safe and appropriate to proceed through an intersection.[1] Waymo conceded that the volume of RA requests received on December 20th exceeded Waymo's RA resourcing capabilities, leading to significant delays in RA response times, Waymo AV stoppages, and increased congestion.

[1] Response of Waymo LLC on the January 12, 2026, Administrative Law Judge's E-mail Ruling Regarding Questions from January 6, 2026, E-mail Ruling, p. 2.

The stoppages that Waymo experienced during the December 20, 2025, power outage raise important questions relating to fleet reliability. The DMV currently requires that all remote operators possess valid U.S. driver's licenses and complete mandatory training. Not only do Tesla's remote operators meet these requirements, but Tesla further requires that its remote operators be located domestically.[2] Tesla is working to ensure that its autonomous technology is developed, manufactured, and supported in the U.S. To this end, domestically-located remote operators enhance situational awareness and familiarity with local driving rules and customs, improve network connectivity, ensure reliability for safety-critical interventions, reduce cybersecurity vulnerabilities, and promote public trust. Given the safety- and sometimes time-sensitive nature of remote operator positions, we encourage the Commission to continue dialogue with the parties and take learnings on this important topic.

8. Use of Advanced Driver Assistance Systems or "Level 2" by Regulated Carriers

At the outset, Tesla expresses its strong agreement with Lyft that "[v]ehicles currently operating on TNC platforms equipped with Level 2 Advanced Driver Assistance Systems (ADAS) should remain outside the scope of the CPUC AV programs...[g]iven that [the] California vehicle code does not categorize these vehicles as 'autonomous vehicles.'"[3]

As we noted in our Opening[4] and Reply[5] comments, Level 2 ADAS provide valuable roadway safety benefits that help reduce collisions; indeed, when Tesla's ADAS – FSD (Supervised) – is engaged, a driver is seven times less likely to be involved in an accident.[6] As evidenced by Tesla's Opening and Reply comments, Tesla is not opposed to reasonable regulations – considered separately from this rulemaking – governing the use of Level 2 ADAS in TCP/TNC vehicles,

[2] Tesla has operated an autonomous rideshare service in Austin, Texas, since June 2025. In addition to our Austin-based remote operators supporting that operation, Tesla employs remote operators in the Bay Area to provide an added layer of redundancy to the Austin service. Tesla subjects its remote operators to extensive background checks and drug and alcohol testing, on top of the other requirements listed above.
[3] Opening Comments of Lyft, Inc. on the Administrative Law Judge's E-Mail Ruling Providing Questions for Prehearing Conference, pp. 3-4.
[4] Tesla, Inc. Opening Comments, pp. 3-4.
[5] Tesla, Inc. Reply Comments, p. 2.
[6] Tesla Vehicle Safety Report, *available at* https://www.tesla.com/fsd/safety.

including requiring training for drivers, providing safety information to drivers and customers, and providing customers with advance notice that a Level 2 technology may be utilized during a passenger ride.[7] Tesla already requires its TCP drivers to complete rigorous classroom and behind-the-wheel training before they are permitted to operate a TCP vehicle and to undergo routine post-training audits to ensure their compliance with Tesla's robust driving standards.[8] However, Tesla respectfully disagrees with two specific regulatory proposals from Waymo.

First, Waymo suggests that all TNCs and TCPs operating Level 2 ADAS-equipped vehicles "provide notice and obtain rider consent prior to any trip in a vehicle with Level 2 ADAS."[9] As indicated in our Opening Comments,[10] Tesla supports requiring TNCs and TCPs to provide customers with advance notice that a Level 2 technology may be utilized during a passenger ride. When California customers sign up for Tesla's rideshare mobile application, they must consent to Tesla's rideshare Terms of Service and are alerted that their ride will be conducted using Tesla's Level 2 ADAS, FSD (Supervised). If the customer requests that the TCP vehicle be driven manually at the start of a ride, the driver should respect that request.

In the absence of such a request, however, Tesla does not support requiring drivers, TNCs, or TCPs to obtain or reaffirm affirmative consent from a passenger prior to engaging a Level 2 technology while in passenger service. Under the SAE Level 2 taxonomy, the driver's role specifically includes "[d]etermin[ing] whether/when engagement and disengagement of the driving automation system is appropriate" in a given situation. Requiring drivers to request and receive or reobtain affirmative passenger consent prior to engaging an ADAS would be antithetical to the functionality of a Level 2 system. The decision to engage a Level 2 system should remain within the province of the driver and should not be contingent upon obtaining the passenger's consent. Further, there may be legitimate legal, business, and/or practical reasons why a carrier may decide against pursuing consent. For example, requiring consent could be deemed unnecessary given the customer's proactive use of the service; create confusion as to

[7] *See* Tesla, Inc. Reply Comments, pp. 2-3
[8] *Id.* at 3.
[9] Response of Waymo LLC on the January 12, 2026, Administrative Law Judge's E-mail Ruling Regarding Questions from January 6, 2026, E-mail Ruling, p. 9.
[10] Tesla Opening Comments, p. 7.

liability; or be difficult to obtain from a passenger with a disability or whose first language is not English.

Waymo also maintains that TNCs and TCPs operating Level 2 ADAS-equipped vehicles "should not be permitted to market or refer to their Level 2 service as 'driverless,' 'self-driving' or 'robotaxi.'"[11] As Tesla indicated in its Reply[12] comments and most recent response to the ALJ's January 6, 2026, e-mail ruling,[13] [14]his proposal is wholly unnecessary, as the State's existing statutory framework already addresses misleading advertisements, including those relating to vehicles and vehicle technology. For example, the DMV has a regulation[15]and also administers a section of the California Vehicle Code that prohibits making false or misleading statements in vehicle advertisements.[16]The DMV is empowered to bring an enforcement action for any violation of these laws. More broadly, the California Civil Code prohibits "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have,"[17]and the California Business and Professions Code makes it unlawful for any entity, with the direct or indirect intent to perform services, to disseminate before the public any statement that is untrue or misleading.[18]Violations of these provisions may result in civil and/or criminal penalties.

As these laws demonstrate, comprehensive enforcement mechanisms are already in place to adequately protect California consumers against false or deceptive advertising by TNCs and TCPs operating Level 2 ADAS-equipped vehicles. Therefore, any requirements issued by the

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[11] *Id.*
[12] Tesla, Inc. Reply Comments, pp. 3-4.
[13] Comments of Tesla, Inc. On the E-mail Ruling Providing Prehearing Conference Questions for Parties, p. 7.
[14] *Id*. at p. 9. Importantly, California law excludes vehicles equipped with Level 2 ADAS from the definition of "autonomous vehicles." Cal. Veh. Code § 38750(a)(1) ("An autonomous vehicle *does not include* a vehicle that is equipped with one or more collision avoidance systems, including, but not limited to, electronic blind spot assistance, automated emergency braking systems, park assist, adaptive cruise control, lane keep assist, lane departure warning, traffic jam and queuing assist, or other similar systems that enhance safety or provide driver assistance, *but are not capable, collectively or singularly, of driving the vehicle without the active control or monitoring of a human operator*.") (emphasis added).
[15] 13 CCR § 228.28.
[16] Cal. Veh. Code § 11713.
[17] Cal. Civ. Code § 1770(a)(5).
[18] Cal. Bus. and Prof. Code § 17500.

Commission governing service names and marketing terms, such as 'robotaxi,' 'self-driving,' or other similar terms, would be redundant, and further, would exceed the scope of the Commission's AV regulatory jurisdiction.

To avoid imposing unnecessary regulatory burdens on Level 2 ADAS-equipped TCP/TNC vehicles, we respectfully urge the Commission to reject Waymo's proposals.

II. Conclusion

Level 2 ADAS and autonomous vehicles hold enormous promise for ensuring Californians have access to safe, reliable, and affordable passenger-carrying transportation. To encourage the continued advancement of these technologies on California roadways, we respectfully request that the Commission adopt Tesla's recommendations on the issues discussed above.

Respectfully submitted on this 13th day of February, 2026.

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