

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL-18927
Rail Safety and Carriers Division
April 20, 2000

RESOLUTION

RESOLUTION GIVING VESSEL COMMON CARRIERS
TEMPORARY AUTHORITY TO ADJUST THEIR FARES
WITHOUT SPECIFIC APPROVAL OF THE COMMISSION

SUMMARY

This resolution gives vessel common carriers (VCCs) temporary authority to adjust their fares without specific Commission authorization. Under this temporary 180-day authority, the majority of carriers will be able to increase fares a maximum of 15 percent from their current fares. This action is being taken in response to the significant increases in fuel prices that have occurred in California.

BACKGROUND

Twenty-one vessel operators currently hold a vessel common carrier certificate from the commission pursuant to Public Utilities (Pub. Util.) Code § 1007 et seq. Nearly half of these operators provide cross-channel passenger service between California mainland points and points on Catalina Island. Many of the other VCCs conduct passenger transportation services on San Francisco Bay.

VCCs are required to file tariffs with the Commission showing their fares and charges. (Pub. Util. Code § 486 et seq.) They generally may increase fares only upon approval of the Commission. (Pub. Util. Code § 454.)

The Commission's Rail Safety and Carriers Division (RSCD) received a letter dated March 14, 2000, from Attorney Edward J. Hegarty, representing Blue & Gold Fleet, L.P. (Blue & Gold) and Catalina Channel Express, Inc. (Express). Mr. Hegarty states that in terms of revenue for common carriers of passengers by vessel, Blue & Gold and Express are the two largest carriers in the State of California. The letter and attachments show the impact that increases in diesel fuel prices have had on these carriers. Projected fuel usage for the year 2000 for Blue & Gold and Express is 700,000 gallons and 1.8 million gallons, respectively. An analysis by Blue & Gold disclosed that to offset fuel price increases incurred since January 1999 it would need additional revenue of \$0.51 per

passenger. This translates to an average increase in ticket prices of 12 percent, and a range of increases from 9 percent to 15 percent, depending on which of the carrier's four Commission regulated services is at issue. While Express did not perform this same level of analysis, it was able to report that its diesel fuel costs increased 55 percent between January 1999 and February 2000.

Mr. Hegarty requests the Commission to authorize Blue & Gold and Express, and all other VCCs, to impose a fuel surcharge of up to 15 percent of their current tariff rates and charges. He points out that such relief would be consistent with the Commission's action in granting passenger stage corporations (PSCs) a fuel surcharge.

Attorney Daniel F. Reidy submitted a letter dated March 17, 2000, in support of this request. Mr. Reidy represents Harbor Bay Maritime (Maritime). He advises that Maritime's situation is similar to that of Blue & Gold as described in Mr. Hegarty's letter.

DISCUSSION

Mr. Hegarty's comment regarding a fuel surcharge for PSCs refers to the Commission's action in Resolution TL-18904, issued October 21, 1999. By that resolution we authorized all PSCs for a 180-day period to adjust their fares within a "zone of reasonableness" whose upper limit is 15 percent above the carrier's current fares. We acted in response to the sudden and significant price increases in gasoline and diesel fuel that had occurred in California. It was our wish to provide these carriers with a convenient mechanism to quickly adjust their fares to recover the increased costs. Because fuel prices remained high, on March 16, 2000, the Commission extended for an additional 180 days the authority for PSCs to adjust their fares within the 15 percent zone of reasonableness.

The authority we granted to all PSCs by Resolution TL-18904 is similar to the Zone of Rate Freedom (ZORF) authority we have granted to some PSCs individually pursuant to Pub. Util. Code § 454.2. This statute refers specifically only to PSCs. However, in a 1998 decision granting an application by Express, we concluded that the Commission has broad discretion to fashion rules relating to transportation rates in the state. (Decision (D.) 98-12-016, dated December 3, 1998, in Application 98-04-051.) This would include extending the ZORF concept to vessel common carriers in the absence of express authorization by statute.

D. 98-12-016 granted Express a ZORF of 10 percent above and below its existing fare levels. RSCD advises that Express exercised the ZORF by a tariff filing effective January 5, 1999, that made various levels of fare increases, up to the 10 percent limit.

The decision authorizing Express' ZORF was served on all VCCs. The Commission invited other carriers to file their own application for a ZORF. So far, none has done so.

It is undisputed that fuel prices, both for diesel fuel and gasoline, have increased dramatically. Based on the consumption figures provided for Blue & Gold and Express, it is clear that VCCs use substantial amounts of fuel. It is appropriate that Blue & Gold, Express, and all other VCCs be able to recover their increased costs as soon as possible. Requiring carriers individually to make formal application for a fare increase or a ZORF when the need for immediate relief is so compelling would not be reasonable. We recognize that VCCs do not necessarily operate in the same type of competitive environment as most PSCs. However, there is a certain amount of competition among the carriers serving Catalina Island, and some of the San Francisco Bay services compete with other modes of transportation. Giving all VCCs authority for 180 days to raise fares up to 15 percent should not result in unreasonably high rates. For the reasons stated in D. 98-12-016, we conclude that we are empowered to grant such authority. Consistent with our treatment of PSCs, Express will be allowed to adjust fares based on the upper limit of its previously authorized ZORF rather than on its current fares.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), RSCD commenced publication of a Daily Calendar notice on March 21, 2000, that apprised the public of the availability of its draft of this resolution and solicited comments by April 10, 2000. A copy of the draft resolution was mailed to Edward J. Hegarty, Daniel F. Reidy, and every VCC holding a certificate from the Commission. W. Bruce Voss, president of Catalina Clipper, LLC, submitted a letter in support of the resolution.

FINDINGS

1. Significant price increases in diesel fuel and gasoline have occurred in California.
2. Blue & Gold and Express report that they now pay a much higher price for fuel than they did in January 1999.
3. Blue & Gold, Express, and other VCCs use large amounts of fuel in conducting their vessel operations
4. By D. 98-12-016, Express was granted a Zone of Rate Freedom of ten percent above and below its existing fare levels.

5. By a tariff filing effective January 5, 1999, Express exercised its ZORF by increasing fares to varying degrees.
6. VCCs, except Express, should be temporarily allowed for 180 days to file tariffs with fare adjustments within a "zone of reasonableness" whose upper limit is 15 percent above their current fares.
7. Express should be temporarily allowed for 180 days to file tariffs with fare adjustments within a "zone of reasonableness" whose upper limit is 15 percent above its authorized zone of rate freedom.
8. Because VCCs may need to respond promptly to changes in fuel costs, there is good cause to authorize them to make tariff filings on one day's notice.
9. The tariff filings authorized by the following order are reasonable and justified.

THEREFORE, IT IS ORDERED that:

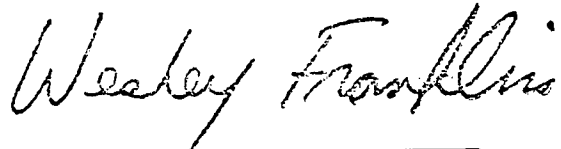
1. Until October 17, 2000, vessel common carriers (VCCs), except Catalina Channel Express, Inc. (Express), are permitted to file tariffs with fares that are within a "zone of reasonableness" whose upper limit is 15 percent above their current fares.
2. Until October 17, 2000, Express is permitted to file tariffs with fares that are within a "zone of reasonableness" whose upper limit is 15 percent above its authorized zone of rate freedom.
3. VCCs shall be allowed to exercise the actions permitted by Ordering Paragraphs 1 and 2 by making a tariff filing showing a percentage surcharge on any or all of their tariff fares and charges within the range authorized.
4. Tariff filings pursuant to this order may be made effective upon one day's notice (one day after filing with the Commission).
5. Any tariff filings authorized by this order shall expire October 17, 2000, absent further order by this Commission.
6. The Executive Director shall cause a copy of this resolution to be served on Edward J. Hegerty, Daniel F. Reidy, and every vessel common carrier holding a certificate from the Commission.

RSCD/pw

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Rail Safety and Carriers Division

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on April 20, 2000. The following Commissioners voted favorably thereon:



WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners