PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division **RESOLUTION TL-19100**
December 16, 2010

R E S O L U T I O N

RESOLUTION EXTENDING THE AUTHORITY GRANTED TO VESSEL COMMON CARRIERS TO ADJUST THEIR FARES AND RATES WITHOUT SPECIFIC APPROVAL OF THE COMMISSION.

SUMMARY

This resolution extends for an additional year the authority granted originally by Resolution TL-19042 allowing vessel common carriers (VCCs) to adjust their fares and rates without specific Commission approval.

BACKGROUND

By Resolution TL-19042, dated June 9, 2004, we authorized VCCs for a 180-day period to file tariffs with fare and rate adjustments within a zone of reasonableness which had an upper limit of 15% above authorized fares and rates. We acted in response to the requests of VCCs who were seeking relief from rapidly rising fuel costs. We agreed that the approximately 20 licensed VCCs should have a convenient mechanism to quickly adjust their fares and rates to recover their increased fuel costs. The special authority was subsequently extended for one year and has been extended for additional one-year periods since then. In several instances the level of the zone was adjusted at the same time. It was expanded from 15% to 20% in 2005 and from 20% to 30% in 2008, and reduced back to 20% in 2009.

The Consumer Protection and Safety Division (CPSD) received a letter dated September 20, 2010, from Attorney Daniel F. Reidy written on behalf of Blue & Gold Fleet, L.P., Catalina Freight Line, Harbor Bay Maritime, Inc., and Star & Crescent Boat Company requesting the Commission to maintain the zone of reasonableness for an additional year at the level of 20%.[1] Reidy describes the fuel price variability that VCCs have encountered over the last several years. Most of the fuel price increases cited by Reidy have largely been discussed already in the prior resolutions that authorized and extended the zone of reasonableness. It is well settled that VCCs have experienced significant volatility in fuel prices since we first authorized the zone in 2004. With respect to recent prices, figures provided by Reidy show that each of the VCCs that he represents has seen fluctuations in 2010. For example, Blue & Gold Fleet's costs ranged from a low of $2.39 per gallon in February to a high of $2.66 per gallon in April (11.3% higher than in the lowest month). The increases experienced by Star & Crescent Boat Company and Catalina Freight Line were similar to Blue & Gold Fleet's on a percentage basis. Harbor Bay Maritime (which does not have its own fuel storage facilities and must buy diesel fuel delivered by truck) saw greater volatility. Its prices fluctuated between $2.22 per gallon in January and $2.87 per gallon in March and April, the peak price being 29.3% higher than the price in the lowest month.

CPSD advises that a relevant benchmark for fuel commonly used by VCCs is the spot market price at Los Angeles for low-sulfur No. 2 diesel fuel. The following are average monthly prices per gallon for that benchmark published by the U.S. Energy Information Administration for the 18-month period April 2009 to September 2010:

April '09	May '09	June '09	July '09	Aug. '09	Sept. '09
$1.41	$1.51	$1.81	$1.70	$1.93	$1.81
Oct. '09	Nov. '09	Dec. '09	Jan. '10	Feb. '10	March '10
$1.97	$2.03	$2.00	$2.03	$2.01	$2.13
April '10	May '10	June '10	July '10	Aug. '10	Sept. '10
$2.29	$2.12	$2.13	$2.09	$2.15	$2.17

The table demonstrates that prices, while not extremely volatile, are showing an

[1] One of the services Blue & Gold Fleet operates is the Alameda/Oakland Ferry Service, which it conducts under contract with the City of Alameda. Reidy advises that the City of Alameda's Ferry Services Manager supports Blue & Gold Fleet's participation in the request to extend the special authority.

upward trend. They increased about 20% from September 2009 when Reidy made his last request for an extension to September 2010 when the current request was filed.

DISCUSSION

The special authority granted to VCCs to adjust fares and rates has enabled carriers to respond promptly to sudden changes in fuel prices. In originally authorizing the relief by Resolution TL-19042, we stated that requiring each carrier to file a formal application for an increase when there is a compelling need for immediate relief would not be reasonable. We still believe carriers should have a means to quickly adjust their fares and rates to recover increased fuel costs. In the circumstances, we believe it is reasonable to extend the special authority for one year at the 20% level. Carriers may continue to round up increased fares and rates under this authority to the next five cents.

Two VCCs, Catalina Channel Express, Inc. and Harbor Breeze Corp., each holds its own zone of rate freedom (ZORF) that allows fare adjustments of up to 20% above base fares.[2] In the past when the zone of reasonableness has been set at 20%, we have excluded these two carriers from the special authority. They will continue to be excluded.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), CPSD commenced publication of a Daily Calendar notice on November 15, 2010, that apprised the public of the availability of this draft resolution and solicited submission of comments by December 6, 2010. A copy of the draft resolution was mailed to Reidy and to every VCC that holds a certificate from the Commission. No comments were received.

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[2] Harbor Breeze Corp.'s ZORF was authorized by Decision 07-06-026. Decision 06-12-022 authorized Catalina Channel Express, Inc. to expand its existing ZORF from 15% to 20%.

FINDINGS

1. In response to significant increases in fuel prices, the Commission by Resolution TL-19042 granted VCCs authority for 180 days to adjust their fares and rates within a "zone of rate reasonableness" which had an upper limit of 15% above authorized fares and rates.

2. Subsequent resolutions extended and adjusted the level of the zone of reasonableness.

3. Resolution TL-19097, dated November 20, 2009, last extended the authority for one year.

4. VCCs continue to be impacted by rising fuel prices.

5. The authority to adjust fares and rates should be further extended for one year from the effective date of this resolution.

6. The zone of reasonableness should continue at the 20% level.

7. Carriers should be allowed to continue rounding fares and rates increased under this authority to the next five cents.

8. Catalina Channel Express, Inc. and Harbor Breeze Corp. should be excluded from the special authority.

9. 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.

10. The tariff filings authorized by the following order are reasonable and justified.

THEREFORE, IT IS ORDERED that:

1. Except as noted below, the special authority permitting vessel common carriers (VCCs) to file tariffs with fares and rates that are within a "zone of reasonableness" which has an upper limit of 20% above currently authorized base fares and rates is further extended for one year.

2. Catalina Channel Express, Inc. and Harbor Breeze Corp. are not authorized to participate in this special authority.

3. Tariff filings made pursuant to this order may be made effective upon one day's notice (one day after filing with the Commission).

4. VCCs shall be allowed to exercise the action permitted under this resolution by making tariff filings that show a percentage surcharge on any or all of their tariff fares and rates within the range authorized.

5. Fares and rates increased under this authority may be rounded up to the next five cents.

6. Tariff filings authorized by this resolution shall expire one year after the effective date of this order absent further order by this Commission.

7. The Executive Director shall cause a copy of this resolution to be served on every VCC holding a certificate from the Commission and every other party on the service list to this resolution.

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 December 16, 2010. The following Commissioners voted favorably thereon:

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners