PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAFETY AND ENFORCEMENT DIVISION **RESOLUTION TL-19115**
Transportation and Enforcement Branch **December 19, 2013**

RESOLUTION

(RES. TL-19115) 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 two years the authority granted originally by Resolution TL-19042 allowing Vessel Common Carriers to adjust their fares and rates without specific Commission approval.

BACKGROUND

By Resolution TL-19042, dated June 9, 2004, we authorized Vessel Common Carriers (VCC) 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. In December 2004 the special authority was 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. It was reduced back to 20% in 2009 and most recently was extended for another year at the 20% level by Resolution TL-19106, dated January 10, 2013. The authority is scheduled to expire on December 16, 2013.

The Safety and Enforcement Division (SED) received a letter dated October 9, 2013, from Attorney Daniel F. Reidy written on behalf of Blue & Gold Fleet, L.P., Catalina Freight Line, and Star & Crescent Boat Company requesting the Commission to maintain the zone of reasonableness at 20% for an additional year. We recommend maintaining the zone of reasonableness at 20% for an additional two years. In the past, the Commission has always granted a one year extension and has not denied the request. We feel confident the zone of reasonableness at 20% can be extended for two years which would save resources and create stability for the industry. Should VCCs choose to make an amendment, a request can be filed with the Commission. Reidy states that the factors which contributed to price volatility in recent years continue to be relevant for the current year market conditions and for what can reasonably be anticipated for the next year. Fuel costs will fluctuate when refineries in the United States close down for maintenance or when the fuel delivery systems are interrupted due to natural disasters such as hurricanes, fires, or floods, or when wars, unstable political conditions, or civil unrest occur in other parts of the world that are sources for diesel fuel provided to the United States. Reidy also explains that ongoing economic difficulties experienced by many individuals, households, and companies have tended to result in fewer passenger trips and reduced freight transport on vessel common carriers, causing their income to fall. At the same time, these carriers generally operate on fixed schedules with the fluctuating fuel cost a necessary operating cost that must be paid irrespective of income or cash flow. Since fuel costs are such a significant portion of operating costs, the carriers continue to need the fuel surcharge authority to adjust tariffs quickly in order to respond to changes in fuel costs. We find this to be reasonable. In prior Resolutions, VCCs have been authorized to make tariff filings on one day’s notice. We are requesting VCCs to make tariff filings on ten days’ notice, to match with Passenger Stage Corporations and to provide passengers more notice of the tariff changes.

Reidy supports the request with historical fuel price information for the three VCCs he represents, including the following recent experiences:

Blue & Gold Fleet

Blue & Gold Fleet operates a passenger vessel service on San Francisco Bay between San Francisco and Tiburon, Sausalito, and Angel Island. Blue and Gold’s average per gallon fuel costs in August of years 2010 and 2011 were, respectively, $2.56 and $3.42. As a sign of price volatility, during the period of September 6, 2012 through September 19, 2013, vessel fuel costs fluctuated between a high of $4.04 per gallon in September 2012 to a low of $3.20 in April of 2013.

Catalina Freight Line

This carrier transports freight between its Los Angeles Harbor terminal and Santa Catalina Island. Since late 2010 its fuel prices have ranged from $2.28 per gallon on August 18, 2010, to $3.55 per gallon on March 16, 2012. The most recent purchase cited was at $3.30 on September 18, 2013.

Star & Crescent Boat Company

Star & Crescent Boat Company transports passengers on San Diego Bay between San Diego and Coronado. In the first nine months of 2013, the monthly average price varied from a low of $3.03 in May to a high of $3.45 in February. The margin between the lowest average monthly fuel cost and the highest average monthly fuel cost during these nine months was 42 cents per gallon.

SED 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 table below shows monthly average prices per gallon for that benchmark published by the U.S. Energy Information Administration for the 18-month period April 2012 through September 2013. The figures demonstrate that there has been some volatility in prices.

April '12	May '12	June '12	July '12	Aug. '12	Sept. '12
$3.26	$3.05	$2.68	$2.85	$3.20	$3.31
Oct. '12	Nov. '12	Dec. '12	Jan. '13	Feb. '13	March '13
$3.24	$3.08	$2.97	$3.10	$3.27	$3.04
April '13	May '13	June '13	July '13	Aug. '13	Sept. '13
$2.92	$2.84	$2.91	$3.04	$3.10	$3.07

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 two years at the 20% level. Carriers may continue to round up increased fares and rates under this authority to the next five cents.

Catalina Channel Express, Inc. and Harbor Breeze Corp. have each been granted a Zone of Rate Freedom (ZORF) that allows fare adjustments of up to 20% above base fares.[1] 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 PROPOSED RESOLUTION

The proposed resolution of the Safety and Enforcement Division in this matter was mailed in accordance with Section 311(g) of the Public Utilities Code. SED also published a Daily Calendar notice commencing on November 19, 2013, that apprised the public of the availability of the proposed resolution and solicited submission of comments by December 9, 2013. No comments were received.

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.

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[1] 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%.

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

3. Resolution TL-19106, dated January 10, 2013, last extended the authority through December 16, 2013.

4. VCCs continue to be impacted by fuel price volatility.

5. The authority to adjust fares and rates should be revised and further extended for two years.

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. Tariff filings on one day's notice is too short. VCCs are required to make tariff filings on ten days' 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 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 until December 16, 2015.

2. All Vessel Common Carriers (VCCs), except Catalina Channel Express, Inc. and Harbor Breeze Corporation, shall inform the public of this proposed resolution by posting a notice in conspicuous places at its terminals and vessels. Such notice shall be on the same day the Safety and Enforcement

Division (SED) publishes the Daily Calendar notice and shall remain posted for not less than 20 days. SED has provided VCCs with a template of the notice (Attachment A) prior to the publishing of this proposed resolution.

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

4. Vessel Common Carriers may make changes within the zone of reasonableness by filing amended tariffs on not less than ten days' notice to the Commission and to the public.
5. In addition to posting and filing tariffs, Vessel Common Carriers, shall post notices in conspicuous places such as, tickets booths, docket stations, information centers, its terminals and vessels, explaining the fare changes Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

6. Vessel Common Carriers 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.

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

8. Tariff filings authorized by this resolution shall expire December 16, 2015, absent further order by this Commission.

9. The Executive Director shall cause a copy of this resolution to be served on every Vessel Common Carrier 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 19, 2013. The following Commissioners voted favorably thereon:

/s/ PAUL CLANON

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
CARLA J. PETERMAN
Commissioners

Attachment A

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NOTICE OF POSSIBLE FERRY RATE INCREASES

The California Public Utilities Commission (CPUC) is inviting the public to comment on a proposed resolution to allow all privately owned ferry operators flexibility to increase fares by up to 20%.

The CPUC will consider the proposal to extend for two years the authority it had previously granted to Vessel Common Carriers (formal term for ferry operators) to adjust their fares within a certain range without its specific approval.

The Resolution TL-19115 is tentatively scheduled for a vote at the CPUC’s December 19, 2013 meeting.

The CPUC wants to hear from the public before making its decision. Please contact Amy Lau (al6@cpuc.ca.gov) before December 9, 2013 for additional information and to express your opinion.