PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division **RESOLUTION TL-19092**
November 16, 2007

RESOLUTION

RESOLUTION EXTENDING THE AUTHORITY GRANTED TO VESSEL COMMON CARRIERS BY RESOLUTIONS TL-19042, TL-19051, TL-19066, AND TL-19080 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 authorization.

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 that fall 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. Without this special authority any VCC wanting to increase its fares or rates would have to file a formal application with the Commission. The special authority was extended one year by Resolution TL-19051, dated December 2, 2004. Resolution TL-19066, dated December 1, 2005, granted a further one-year extension and increased the zone of reasonableness from 15% to 20%. That authority was extended again by Resolution TL-19080 to November 30, 2007.

The Consumer Protection and Safety Division (CPSD) received a request from Attorney Daniel F. Reidy on behalf of five VCCs to extend the special authority for another year. In a letter dated September 30, 2007, Reidy advises that these VCCs have had to pay fuel prices in 2007 as high or higher than in 2006, and that the prices are significantly greater than they were in the spring of 2004 when the Commission initially granted what then was expected to be "temporary" relief. He states that the VCCs have experienced spikes in fuel prices with rapid fluctuations that present serious pressures on their operating budgets and make projecting fuel costs for the near future difficult. Reidy explains that most of the factors the carriers previously called to the Commission's attention continue to affect fuel costs, such as ongoing hostilities in the Middle East, and fluctuations in fuel costs and disruptions in fuel deliveries from West Africa and Venezuela.

Reidy provides cost information for the five VCCs to support the request. He includes 2004 figures as a reminder of where fuel prices were when the Commission first authorized the special authority.

Blue & Gold Fleet, Inc.
This carrier operates passenger vessel services between San Francisco and Tiburon, Sausalito, Angel Island, and Alameda/ Oakland. In January 2004, its fuel costs were generally below $1.10 per gallon. On June 9, 2004, the date Resolution TL-19042 was issued first authorizing the special authority, Blue & Gold Fleet was paying $1.32 per gallon. During 2006, prices fluctuated between slightly below $2.00 per gallon to a peak of $2.79 per gallon in August. The monthly average price per gallon in 2007 (through August) has ranged from $2.07 in January to $2.56 in July.

Catalina Freight Line
Catalina Freight Line transports freight between its terminal in Wilmington and Santa Catalina Island. Shortly before the Commission initially granted the special authority in June 2004, the carrier was paying $1.27 per gallon. On November 14, 2006, just before the current extension of the authority commenced, the carrier was paying $1.99 per gallon. Through August 2007, fuel costs were all above $2.00 per gallon, with the costs in July spiking to $2.42 and $2.49 per gallon.

Angel Island-Tiburon Ferry
This is a relatively small family-owned VCC that operates on San Francisco Bay between Tiburon and Angel Island. The carrier does not have its own bulk fuel tank so it must purchase fuel at marine fuel docks at the same prices as recreational boat users. In August 2004 it was paying $1.79 per gallon. It paid as high as $2.89 per gallon in 2006, and in 2007 its highest costs have been $2.64 per gallon on August 9 and $3.18 per gallon on September 19. Reidy notes that under its contract with the California Department of Parks and Recreation, Angel Island-Tiburon Ferry must pay 10% of all passenger fare revenue, including the fuel surcharge, to the State. As a result, the surcharge income that it collects from passengers is not fully available to recover high fuel costs.

Harbor Bay Maritime
Harbor Bay Maritime operates the Alameda Harbor Bay Ferry Service carrying passengers between Bay Farm Island in Alameda and San Francisco. It purchases fuel delivered by truck to its overnight berth at Pier 48 in San Francisco. Its average fuel price in 2004 was $1.64 per gallon. During 2006, monthly average fuel costs fluctuated between $2.25 and $2.90 per gallon. The monthly average in 2007 has ranged between $2.39 per gallon in January and $2.84 per gallon in August (the last month for which figures are provided).

Star & Crescent Boat Company
This carrier conducts a passenger ferry service on San Diego Bay between Downtown San Diego and Coronado. In June 2004 it purchased fuel at $1.28 per gallon. The monthly average price per gallon in 2006 ranged between $2.07 and $2.48. Through August 2007, it fluctuated between $2.08 per gallon in January and a high of $2.46 in July.

DISCUSSION

VCCs continue to be affected by volatility in the fuel market. We have previously acknowledged that granting blanket relief to an entire industry may not be an optimum form of rate regulation. It is preferable to have each carrier seek its own relief by documenting its revenues and expenses in a formal application for a rate increase. Several carriers have in fact done that. The process, however, lacks precision because fuel costs (a major component of VCC operating costs) fluctuate so greatly. Blanket relief has the advantage that it can be modified or cancelled with relative ease to respond to changes in fuel prices. Permanent relief granted at a time when fuel prices are at their peak levels would lock in higher fares and rates even if fuel prices were to subsequently drop.

Reidy has documented that VCCs have had to pay fuel prices in 2007 at least as high as in 2006. CPSD advises that one of relevant diesel fuel price benchmarks[1] published by the U.S. Energy Information Administration shows the price on September 28, 2007, to be about 24% higher than in November 2006, when we last extended the special authority. It is evident that there is a need for continuing the relief. We therefore are agreeable to granting Reidy's request by extending the special authority for an additional year. CPSD will continue to monitor fuel prices, and if price changes warrant cancellation or modification of the authority during the one-year period, we will act accordingly.

We previously indicated that we are open to receiving suggestions from VCCs and other interested parties on possible alternative methods that the Commission might use to address the ongoing problem of volatile fuel prices as it relates to our regulation of VCC fares and rates. No recommendations were ever submitted. We want parties to know that we are still open to receiving their suggestions.

One VCC, Catalina Channel Express, Inc., has been excluded from the special authority because it holds its own zone of rate freedom (ZORF). We recently authorized Harbor Breeze Corp. to operate as a VCC. Decision 07-06-026 also granted the carrier's request to establish a ZORF. Because these two carriers already have the flexibility to adjust their fares, they will be excluded from the special authority.

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[1] Spot market price at Los Angeles for low-sulfur No. 2 diesel fuel.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), CPSD commenced publication of a Daily Calendar notice on October 17, 2007, that apprised the public of the availability of this draft resolution and solicited submission of comments by November 6, 2007. A copy of the draft resolution was mailed to Reidy and every VCC that holds a certificate from the Commission. No comments were received.

FINDINGS

1. In response to significant increases in fuel prices, the Commission by Resolution TL-19042 granted VCCs, except Catalina Channel Express, Inc., 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. The zone of reasonableness authority granted by Resolution TL-19042 has been extended several times and was expanded from 15% to 20% by Resolution TL-19066.

3. The special authority, last extended by Resolution TL-19080, is scheduled to expire November 30, 2007.

4. High and volatile fuel prices continue to significantly impact the VCC industry.

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

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

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

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. 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 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 Ordering Paragraphs 1 and 3 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 November 16, 2007. The following Commissioners voted favorably thereon:

Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners