PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division | **RESOLUTION TL-19080**
November 30, 2006

RESOLUTION

RESOLUTION EXTENDING THE AUTHORITY GRANTED TO VESSEL COMMON CARRIERS BY RESOLUTIONS TL-19042, TL-19051, AND TL-19066 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%. Carriers were allowed to round fares and rates increased under this authority to the next five cents. The authority is scheduled to expire on December 1, 2006.

The Consumer Protection and Safety Division (CPSD) has 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 October 11, 2006, Reidy advises that fuel prices paid by VCCs are significantly higher than they were in the spring of 2004 when the Commission was prompted to initially grant the temporary authority and are either above or generally in the same range as when the Commission last extended the authority. He states that VCCs have experienced spikes in fuel prices with rapid fluctuations that present serious pressures on their operating budgets and make projecting fuels costs for the near future difficult. Reidy explains that the factors which the carriers called to the Commission's attention last year in requesting a one-year extension continue to affect fuels costs, and some additional factors have come into play: heightened hostilities in the Middle East; disruptions in fuel deliveries and fluctuations in fuels costs from Africa (especially Nigeria) and Venezuela; the reduction in fuel supply from Alaska due to problems with the pipeline system; slower than expected repairs of damages to fuel refining facilities and distribution systems due to Hurricane Katrina; and additional shutdowns in refineries in California.

In support of the request for a further extension, Reidy provides information (including supporting documents) for the five VCCs he represents:

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 $1.52 per gallon. The price was $1.80 per gallon on December 1, 2005 when the Commission last extended the authority and increased the zone of reasonableness to 20%. From there prices rose to a high of $2.09 on August 6, 2006, after which the carrier experienced a downward trend.

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 December 1, 2005, it was paying $1.75 per gallon. Catalina Freight Line's fuel purchases during 2006 have all been

at prices greater than those paid in 2005, with a high of $2.58 per gallon in April and at $2.44 per gallon on August 1 (the latest date provided).

Angel Island-Tiburon Ferry
This is a relatively small family-owned VCC that operates on San Francisco Bay between Tiburon and Angel Island. It does not have its own bulk fuel tank so it is unable to take advantage of volume discounts available to larger carriers. Angel Island-Tiburon Ferry was one of the carriers that jointly filed a request in October 2004 to extend the temporary authority. At that time it was paying $1.96 per gallon. Approximately one year later it was paying $2.78 per gallon. The most recent cost figure available is $2.87 per gallon on October 6, 2006. 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 recent yearly average fuel costs have been as follows: 2003 - $1.20 per gallon; 2004 - $1.64 per gallon; 2005- $2.18 per gallon. For January through September 2006 the average price was $2.62 per gallon, with the highest month being August, when the price reached $2.90 per gallon.

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. In August 2005 it paid an average of $2.58 per gallon. In 2006 the price peaked in May at $2.66 per gallon.

DISCUSSION

Volatility in the fuel market continues to affect VCCs. While there has been a downward trend in prices in recent months, as Reidy points out, unforeseen world events can suddenly and significantly impact fuel prices. We have previously acknowledged that granting blanket relief to an entire industry may not be an optimum form of rate regulation. Preferably, each carrier would seek its own relief by documenting its revenues and expenses in a formal application for a rate increase. Even that process is imprecise, however, because fuel prices are a moving target. An advantage to blanket relief is 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 fuel prices remain high for VCCs. CPSD confirms that prices generally are at the same level or slightly higher than they were one year ago when we further extended the special authority. It is evident that there is a need for continuing the relief. We therefore are favorable to 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 also are open to receiving suggestions from VCCs and other interested parties on possible alternative methods that the Commission might use in the future to address the ongoing problem of volatile fuel prices as it relates to our regulation of VCC fares and rates.

One VCC, Catalina Channel Express, Inc., has been excluded from the special authority because it holds its own zone of rate freedom. The carrier was last granted authority to increase its base fares in October 2005 by Decision (D.) 05-10-011. It has filed an application (A.06-07-013) to increase its fares and to expand its ZORF. We will continue to exclude Catalina Channel Express, Inc. from the special authority.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), CPSD commenced publication of a Daily Calendar notice on October 26, 2006, that apprised the public of the availability of this draft resolution and solicited submission of comments by November 15, 2006. 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 authority granted by Resolution TL-19042 was extended to December 2, 2005, by Resolution TL-19051.

3. Resolution TL-19066, dated December 1, 2005, further extended the special authority to December 1, 2006, and increased the zone of reasonableness to 20%.

4. High 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. should continue to 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 temporary authority granted by Resolution TL-19042, extended by TL-19051, and further extended and expanded by Resolution TL-19066, 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. is 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 30, 2006. The following Commissioners voted favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners