RSCD / PW *

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rail Safety and Carriers Division **RESOLUTION TL-18989**
March 6, 2002

RESOLUTION

RESOLUTION MODIFYING THE EXPIRATION DATE OF THE AUTHORITY GRANTED TO VESSEL COMMON CARRIERS TO ADJUST THEIR FARES WITHOUT SPECIFIC APPROVAL OF THE COMMISSION

SUMMARY

This resolution modifies the expiration date of the authority previously granted to vessel common carriers (VCCs) to adjust their fares without specific Commission authorization in response to higher fuel prices. The authority will now expire June 30, 2002, instead of October 17, 2002. The expiration will be deferred for any VCC that files a formal application for rate relief by June 30, 2002.

BACKGROUND

By Resolution TL-18927, dated April 20, 2000, we authorized all VCCs for a 180-day period to file tariffs with fares that are within a “zone of reasonableness” whose upper limit is 15% above their current fares.[1] This action was taken in response to the significant increases in fuel prices that had occurred in California. We wanted VCCs to be able to obtain needed revenue to offset these higher fuel prices with minimum regulatory burden. Without this special authority carriers would have had to individually formally apply to the Commission for a fare increase. The authority granted by Resolution TL-18927 was extended twice, by Resolutions TL-18944 (October 5, 2000) and TL-18974 (September 20, 2001). It is scheduled to

---

[1] One carrier, Catalina Channel Express, Inc., was authorized to increase fares up to 15% above the zone of rate freedom it had been granted by Decision 98-12-016.

expire October 17, 2002, unless earlier modified or canceled by the Commission.

DISCUSSION

Resolution TL-18927 was issued in response to a letter request submitted in March 2000 by two VCCs, Blue & Gold Fleet, L.P. and Catalina Channel Express, Inc. The request cited a 55% increase in the price of diesel fuel from January 1999 to January 2000. The carriers asked that all VCCs be given authority to increase their fares up to 15% to offset higher fuel costs. We had already granted passenger stage corporations similar authority in October 1999.

Between the time the authority to adjust fares was first granted to VCCs in April 2000 and the most recent extension of that authority in September 2001 by Resolution TL-18974, fuel prices remained well above their early 1999 levels. In Resolution TL-18974 we stated that the authority to adjust fares would be canceled or modified if warranted by changes in fuel prices. Not long after we issued this resolution, fuel prices began to fall. Diesel fuel prices are not far from the level they were at the beginning of 1999 (the benchmark used in the request for fare relief), and are substantially below the peak levels they reached in late 2000.

The dramatic fall in prices is demonstrated by the spot market price at Los Angeles for diesel fuel.[2] The average monthly price peaked in November 2000 at $1.122 per gallon. A year later the price per gallon had declined to $0.612. On January 10, 2002, the price was $0.525 per gallon, less than half the peak price. Spot market prices are not necessarily representative of the prices carriers actually pay, but they are useful for tracking changes in fuel prices.

Such factors as supply, demand, and the inflation rate affect fuel prices. There is no certainty that the existing favorable conditions contributing to

---

[2] Spot market price at Los Angeles for low-sulfur No. 2 diesel fuel. Source: US Department of Energy.

current relative price stability will not change. However, it is clear is that the exceptional circumstances which caused us originally to grant the authority to increase fares in April 2000 are no longer present. We therefore find that the authority to adjust fares without specific approval of the Commission should be canceled. VCCs will be given 20 days from the effective date of this resolution to cancel any surcharges or fare increases that are currently in effect under the authority of Resolution TL-18974.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), the Rail Safety and Carriers Division commenced publication of a Daily Calendar notice on January 22, 2002, that apprised the public of the availability of its draft of this resolution and solicited comments by February 12, 2002. The draft resolution was also mailed to every VCC holding a certificate from the Commission and to other parties on the service list to Resolution TL-18974. Comments were timely filed by:

- Thomas G. Bertken, Chief Executive Officer, Water Transit Authority
- Edward J. Hegarty, Attorney at Law, on behalf of Blue & Gold Fleet, L.P., and Angel Island – Tiburon Ferry, Inc.
- Joseph M. Tanner, Assistant City Manager, City of Alameda
- Daniel F. Reidy, Attorney at Law, on behalf of Harbor Bay Maritime

All of the commenting parties recommend against canceling the special authority to adjust fares (oftentimes referred to as a fuel surcharge). They do not dispute that fuel prices have declined to their earlier levels. The parties argue, though, that VCCs continue to need fare relief due to other special circumstances. They say that the downturn in the economy and the terrorist events of September 11 have resulted in reduced ridership and an attendant loss of revenue. Harbor Bay Maritime also points to September 11 as the reason for some increased costs, insurance and security expenses being examples.

The fuel surcharge has enabled the carriers to maintain service levels notwithstanding these revenue and expense impacts. If the surcharge were to be canceled, some carriers might have to curtail service. A suggested alternative is to continue the surcharge to allow time for carriers who wish to do so to file a formal fare increase application with the Commission.

Some comments related to the public subsidies received by Harbor Bay Maritime and Blue & Gold Fleet. The City of Alameda subsidizes Harbor Bay Maritime's ferry service between Alameda and San Francisco. Blue & Gold's Alameda / Oakland – San Francisco service is subsidized by the City of Alameda and the Port of Oakland. The subsidies have already been set for the fiscal year ending June 30, 2002, based on current passenger fares, which include a fuel surcharge. There are no additional subsidies available to make up the shortfalls in fare box revenues that would result from cancellation of the surcharge.

The Water Transit Authority commented on the importance of ferry services in relieving traffic congestion in the San Francisco Bay Area. It is concerned that any curtailment in service would impact the reliability of ferry transit service and discourage ridership.

Also received were late-filed comments from Mark O. Kasanin, supported by 31 fellow commuters on Blue & Gold's Tiburon ferry, and a letter from W. Graham Claytor, representing the Alameda Commuter's Club. While these were not filed in the prescribed manner, we nevertheless wish to acknowledge the writers' interest in this matter and will note that they support continuation of the surcharge.

The special authority originally granted in April 2000 was intended to address the specific problem of significantly increased fuel costs. It was not meant to offset general increases in operating expenses or declines in operating revenues. Those should be addressed in a fare increase application where the Commission can evaluate the carrier's rates and profitability in concert with other relevant operational issues, such as service quality.

The resolutions extending the authority placed carriers on notice that it could be canceled or modified prior to its scheduled expiration date if warranted by changes in fuel prices. Continuation of the authority is no longer justified on the basis of higher fuel prices. However, other major unanticipated events have occurred which the commenting parties claim have caused carrier revenues to drop or operating costs to increase, or both.

Under the circumstances, a limited continuation of the special authority is reasonable. It would be consistent with our original objective to allow carriers to adjust their fares in the face of sudden unexpected changes in operating conditions that are beyond their control. It would also avoid any disruptions in service to the public that might otherwise occur. Accordingly, we will modify the authority granted by Resolution TL-19874 as follows:

- The authority to adjust fares will expire June 30, 2002, instead of October 17, 2002, and will be available only to those VCCs who currently have surcharges or increased fares on file and in effect.

- If a VCC with a surcharge or increased fares in effect files a formal application for rate relief by June 30, 2002, the special authority will continue in effect for that carrier until the Commission acts on the application.

- No new tariff filings will be accepted under Resolution TL-18974, except to cancel or reduce a surcharge or increased fare already on file.[3]

FINDINGS

1. Significant increases in diesel fuel prices occurred in California in 1999 and 2000.

2. VCCs would have been unable to recover fuel cost increases without additional Commission authority.

3. By Resolution TL-18927, dated April 20, 2000, we authorized all VCCs for a 180-day period to file tariffs with fare adjustments within a "zone of reasonableness" that had an upper limit of 15% above their current or highest authorized fares.

4. The authority granted by Resolution TL-18927 was extended twice, by Resolutions TL-18944 and TL-18974. It is scheduled to expire October 17, 2002, unless earlier modified or canceled by the Commission.

---

[3] RSCD advises that no more than 7 of the 21 VCCs have increased fares on file.

5. Prices of diesel fuel have fallen substantially below the peak levels they reached in late 2000.

6. The authority granted to VCCs to adjust fares within a zone of reasonableness is no longer justified on the basis of increased fuel costs.

7. Some VCCs report that the downturn in the economy and the terrorist events of September 11, 2001, have caused ridership and revenues to decline, and that a further reduction in revenue could result in the curtailment of services.

8. It is reasonable to allow VCCs who currently have increased fares on file under authority of Resolution TL-18974 to continue to charge those fares until June 30, 2002.

9. Any VCC with a fare increase on file under Resolution TL-18974 who files a formal application for rate relief by June 30, 2002, should be allowed to continue to use the special authority until the Commission acts on the application.

10. No new fare increases should be allowed under the authority of Resolution TL-18974.

THEREFORE, IT IS ORDERED that:

1. The authority granted by ResolutionTL-18927, as extended by Resolutions TL-18944 and TL-18974, permitting vessel common carriers (VCCs) to file tariffs with fares that are within a “zone of reasonableness,” shall expire June 30, 2002.

2. Any VCC who currently has a surcharge or increased fares on file and in effect under authority of Resolution TL-18974 shall file a tariff amendment canceling the surcharge or increased fares effective no later than June 30, 2002.

3. If a VCC who currently has a surcharge or increased fares on file pursuant to Resolution TL-18974 files a formal application for rate relief by June 30,

2002, it may continue to assess the surcharge or increased fares until the Commission acts on the application.

4. No new tariff filings shall be made under Resolution TL-18974, except to cancel or reduce a surcharge or increased fare already on file.

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

6. The Rail Safety and Carriers Division is authorized to cancel any tariff filing that it finds has not been canceled as required by Ordering Paragraph 2.

7. The Executive Director shall serve a copy of this resolution 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 March 6, 2002. The following Commissioners voted favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners