PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division **RESOLUTION TL-19103**
December 1, 2011

RESOLUTION

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. 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-19100, dated December 16, 2010. The authority is scheduled to expire on December 16, 2011.

The Consumer Protection and Safety Division (CPSD) received a letter dated September 19, 2011, 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. 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.

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

<u>Blue & Gold Fleet</u>
Blue & Gold Fleet operates a passenger vessel service on San Francisco Bay between San Francisco and Tiburon, Sausalito, and Angel Island. Its average per gallon fuel costs were $2.01 in 2009, $2.57 in 2010, and $3.51 in 2011 (through August). Reidy notes that the carrier experienced considerable volatility in prices in the last year, with monthly average costs ranging from a low of $2.55 per gallon in September 2010 to a high of $3.84 per gallon in April 2011. The most recent figure provided is $3.42 per gallon in August 2011.

<u>Catalina Freight Line</u>
This carrier transports freight between its Los Angeles Harbor terminal and Santa Catalina Island. Since late 2009 its fuel prices have ranged from $1.98 per gallon on October 8, 2009, to $3.54 per gallon on April 11, 2011. It paid $3.25 per gallon at the beginning of August 2011.

<u>Star & Crescent Boat Company</u>
Star & Crescent Boat Company transports passengers on San Diego Bay between San Diego and Coronado. The carrier's monthly average fuel cost in August 2011 was $3.17 per gallon, which was a 30.5% increase over the August 2010 cost of $2.43 per gallon. Over the past year, monthly average

prices varied from a low of $2.41 in September 2010 to a high of $3.59 in April 2011.

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 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 2010 through September 2011.

April '10	May '10	June '10	July '10	Aug. '10	Sept. '10
$2.31	$2.13	$2.14	$2.10	$2.16	$2.19
Oct. '10	Nov. '10	Dec. '10	Jan. '11	Feb. '11	March '11
$2.34	$2.39	$2.50	$2.62	$2.85	$3.23
April '11	May '11	June '11	July '11	Aug. '11	Sept. '11
$3.39	$3.13	$3.07	$3.12	$2.97	$3.01

The figures show that prices have been volatile and moved generally upward.

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.

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

[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%.

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), a copy of the draft resolution was mailed to Reidy and to every VCC that holds a certificate from the Commission. CPSD also published a Daily Calendar notice commencing on October 26, 2011, that apprised the public of the availability of the draft resolution and solicited submission of comments by November 15, 2011. 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.

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

3. Resolution TL-19100, dated December 16, 2010, last extended the authority for one year.

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

5. The authority to adjust fares and rates should be further extended for one year from December 16, 2011.

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 until December 16, 2012.

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 December 16, 2012, 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 1, 2011. The following Commissioners voted favorably thereon:

/s/ PAUL CLANON

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners