

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



Agenda ID #11790

December 7, 2012

TO: PARTIES THAT MAY HAVE AN INTEREST IN DRAFT RESOLUTION TL-19106
EXTENDING THE AUTHORITY GRANTED TO VESSEL COMMON CARRIERS TO ADJUST
THEIR FARES AND RATES WITHOUT SPECIFIC COMMISSION APPROVAL.

Enclosed is *draft* Resolution TL-19106 of the Consumer Protection and Safety Division (CPSD). It will be on the January 10, 2013, Commission meeting agenda. The Commission may then vote on this resolution or it may postpone a vote until later.

When the Commission votes on the resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare a different resolution. Only when the Commission acts does the resolution become binding on the parties.

Interested parties *may* submit comments on the draft resolution. An original and two copies of the comments, with certificate of service, should be submitted to:

Donna Wong, Supervisor
CPSD - License Section
Public Utilities Commission
505 Van Ness Ave., 2nd Floor
San Francisco, CA 94102

CPSD must *receive* comments by December 27, 2012. Parties must serve a copy of their comments on all persons on the Service List attached to the draft resolution on the same date that comments are submitted to CPSD.

Comments shall be limited to five pages in length. They shall focus on factual, legal or technical errors in the proposed resolution.

Replies to comments may be submitted within five days after comments are submitted and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length and shall be submitted and served in the same manner as comments.

Very truly yours,

/s/

Donna Wong, Supervisor
License Section
Consumer Protection and Safety Division

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**Consumer Protection and Safety Division****Agenda ID #11790
RESOLUTION TL-19106
January 10, 2013****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 at the 20% level to December 16, 2012, by Resolution TL-19103, dated December 1, 2011.

The Consumer Protection and Safety Division (CPSD) received a letter dated October 12, 2012, 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 fuel price information for the three VCCs he represents, including the following:

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 & Gold's average per gallon fuel costs in August of years 2009, 2010, and 2011, were, respectively, \$2.34, \$2.56, and \$3.42. Its costs in August 2012 ranged between \$3.60 and \$3.92 per gallon. As a sign of price volatility, in the first nine months of 2012, Blue & Gold's fuel costs ranged from a low of \$2.98 per gallon on June 26 to a high of \$4.04 per gallon on September 6.

Catalina Freight Line

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 \$3.55 per gallon on March 16, 2012. The most recent purchase cited was at \$3.40 per gallon on September 21, 2012.

Star & Crescent Boat Company

Star & Crescent Boat Company transports passengers on San Diego Bay between San Diego and Coronado. The carrier's monthly average fuel cost in September 2012 was \$3.43 per gallon. By comparison, it was \$3.27 per gallon in September 2011 and \$2.41 per gallon in September 2010. In the first nine months of 2012, the monthly average price varied from a low of

\$2.86 in June to a high of \$3.58 in March.

CPSD advises that a relevant benchmark for fuel commonly used by VCCs is the spot market price at Los Angeles for ultra-low-sulfur No. 2 diesel fuel.¹ 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 2011 through September 2012. The figures demonstrate that there has been some volatility in prices.

April '11	May '11	June '11	July '11	Aug. '11	Sept. '11
\$3.39	\$3.13	\$3.07	\$3.12	\$2.97	\$3.01
Oct. '11	Nov. '11	Dec. '11	Jan. '12	Feb. '12	March '12
\$3.09	\$3.19	\$2.91	\$3.09	\$3.24	\$3.38
April '12	May '12	June '12	July '12	Aug. '12	Sept. '12
\$3.25	\$3.01	\$2.65	\$2.85	\$3.23	\$3.30

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

¹ The spot price costs are typically less than the actual costs paid by VCCs for their fuel since the costs of distribution and delivery would be added to the base price of the diesel fuel.

base fares.² 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 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 December 7, 2012, that apprised the public of the availability of the draft resolution and solicited submission of comments by December 27, 2012. Comments were filed on _____.

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-19103, dated December 1, 2011, last extended the authority to December 16, 2012.
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.
6. The zone of reasonableness should continue at the 20% level.

² 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%.

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, 2013.
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, 2013, 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 _____.
The following Commissioners voted favorably thereon:

PAUL CLANON
Executive Director

SERVICE LIST

Parties making comments to draft Resolution TL-19106 of the Consumer Protection and Safety Division must serve a copy of their comments to all of the parties on this Service List on the same date that the comments are submitted to the Division.

Daniel F. Reidy Attorney at Law P.O. Box 760 Angels Camp, CA 95222	Milton McDonough, Pres. Angel Island-Tiburon Ferry, Inc. P.O. Box 1231 Tiburon, CA 94920	H.S. Beek, President Balboa Island Ferry Company, Inc. 410 South Bay Front Balboa Island, CA 92662
Catalina Passenger Service, Inc. 400 Main Street Balboa, CA 92661	Tom Jankovich San Pedro Marine P.O. Box 670 San Pedro, CA 90733	Karen D. Spencer, Controller Star and Crescent Boat Co. P.O. Box 120751 San Diego, CA 92112
Hornblower Yachts GL Accounting Pier 3, Ferryboat Santa Rosa San Francisco, CA 94111	Ron Duckhorn, President Blue and Gold Fleet, L.P. Pier 41 Marine Terminal San Francisco, CA 94133	Cheryl Allison Island Boat Service P.O. Box 2375 Avalon, CA 90704
Gregory E. Bombard, V.P. Catalina Channel Express Berth 95 San Pedro, CA 90731	So. Cal. Ship Services 971 S. Seaside Ave. Terminal Island, CA 90731	Richard Coffey, CEO Catalina Freight Line 100 Water Street, Berth 184 Wilmington, CA 90744
Jeffrey Wayne Stickler, CEO Island Enterprises, Inc. P.O. Box 92766 Long Beach, CA 90809	Thomas A. Nielsen, President Catalina Classic Cruises, Inc. 2385 Shelter Island Drive San Diego, CA 92106	Ted Griffith Sr., President Pacific Maritime Freight, Inc. P.O. Box 12787 San Diego, CA 92112
Thomas C. Escher, Pres. Red and White Ferries, Inc. Pier 43 ½, The Embarcadero San Francisco, CA 94113	Mary McMillan Westar Marine Services Pier 50, Shed C San Francisco, CA 94107	Steven A. Kofahl, Pres. Pacific Adventure Cruises, Inc. 23444 Gilmore Street West Hills, CA 91307
Dan Salas, CEO Harbor Breeze Corp. 83 Narcissa Drive Rancho Palos Verdes, CA 90275		