

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Blue & Gold Fleet, L.P. (VCC-77), For Authorization to Adjust Fares on Its Vessel Common Carrier Service on San Francisco Bay Between Tiburon on the One Hand and Authorized Points in San Francisco on the Other Hand.

Application 15-08-009
(Filed August 10, 2015)

DECISION GRANTING BLUE & GOLD FLEET, L.P. LEAVE TO WITHDRAW APPLICATION; AND DISMISSING APPLICATION WITHOUT PREJUDICE**Summary**

This decision grants Blue & Gold Fleet, L.P.'s, request to withdraw its application filed on August 10, 2015, for authorization to adjust fares on its vessel common carrier service on San Francisco Bay between Tiburon on the one hand and authorized points in San Francisco on the other hand, pursuant to Public Utilities Code Section 454.

This proceeding is closed.

1. Background

On August 10, 2015, Blue & Gold Fleet, L.P., (Blue & Gold) filed Application (A.)15-08-009 (Application) with the California Public Utilities Commission (Commission) requesting authorization to adjust passenger fares on its vessel common carrier service on between Tiburon and authorized points in San Francisco (the Tiburon/SF Service). Specifically, Blue & Gold requests authority to delete the Commuters (20 tickets) line item from its tariff, conditioned upon and effective only upon the assumption of the commuter

hours service on its Tiburon/San Francisco Service by the Golden Gate Bridge Highway and Transportation District (Golden Gate). Notice of the Application appeared on the Commission's Daily Calendar on August 12, 2015.

Pursuant to Rule 2.6, Golden Gate filed a response to the Application on September 11, 2015. On November 16, 2015, the Commission accepted for filing protests from: (1) the Town of Tiburon (Tiburon); (2) the City of Belvedere (Belvedere); and (3) Mr. William M. Lukens, on behalf of himself and other Commuters. The protests contend that deleting the 20-tickets line item from Blue & Gold's tariff would result in an increase of almost 60% for individuals commuting on Blue & Gold's Tiburon/San Francisco Service. Thus, the protests were filed in order to avoid drastic changes to the rates and/or schedules.

On March 28, 2016, Belvedere withdrew its protest to the Application. Accordingly, Blue & Gold, Golden Gate, Tiburon, and Mr. Lukens (the Parties) are the only parties to this proceeding.

A prehearing conference (PHC) was noticed initially in this proceeding for December 15, 2015. On December 10, 2015, while indicating that the proceeding was not ripe for adjudication, the Parties jointly requested that the proceeding be continued to mid-to-late March 2016 in order to afford the Parties time for negotiations. On December 11, 2015, the Administrative Law Judge (ALJ) granted the Parties' request and continued the PHC to March 29, 2016.

On March 23, 2016, the Parties filed a second joint request to continue the proceeding including the PHC to mid-July 2016, due to on-going settlement efforts between the Parties. In their March 23, 2016 request, the Parties confirmed that: (1) there were no disputed material facts in the case; (2) they did not need further discovery or required an evidentiary hearing; and (3) Application (A.) 15-08-009 was still not yet ripe for adjudication/resolution.

On March 24, 2016, the ALJ denied the Parties' second request for continuance and directed the Parties to prepare for and appear at the March 29, 2016 PHC. In the March 24, 2016 ruling, the ALJ directed the Parties to be prepared to explain, at the March 29, 2016 PHC, why the Application should not be dismissed without prejudice, and be refiled when it is ripe for adjudication given the Commission's interest in resolving all matters promptly and expeditiously. All the Parties were present for the March 29, 2016 PHC. At the PHC, the Parties explained that they had a framework for a settlement agreement, which they hoped would be finalized by the end of June 2016. Accordingly, the Parties renewed their request to continue the proceeding and PHC. The Parties established good cause for a continuance, and the PHC was continued to July 26, 2016.

Each of the Parties appeared for the July 26, 2016 PHC and engaged in substantive discussion on the record regarding the status of the proceeding, and their ongoing settlement efforts. The Parties again confirmed that they have an "agreement-in-principle," but that no final settlement agreement resolving the sole issue in this Application could be signed by all Parties until certain specified conditions are met by Blue & Gold. The remaining negotiations between the parties appear to involve issues relating to the transitioning of the commuter hours service on Blue & Gold's Tiburon/San Francisco Service to Golden Gate.

The Parties agreed that the Application was still not ripe for resolution, but that while additional time was needed to reach a final settlement in the Application, an evidentiary hearing was not required. Accordingly, the Parties

agreed that Blue & Gold could withdraw its application without prejudice, and refile it when appropriate.¹

On August 5, 2016, Blue & Gold filed a request to withdraw A.15-08-009 without prejudice, and requested that the Commission grants the request so it can “refile a similar application in the future,” after all negotiations between the Parties were concluded. There was no opposition to Blue & Gold’s request to withdraw the Application.

2. Categorization and Need for Hearing

The Commission in Resolution ALJ 176-3361, issued on August 13, 2015, preliminarily determined that the category of this Application as ratesetting as defined in Rule 1.3(e). This decision confirms the categorization. In addition, the Commission preliminarily determined that evidentiary hearings are not required. While protests were filed in this proceeding and issues were initially raised regarding this Application, there are currently no disputed issues in this proceeding and evidentiary hearings are not required. Accordingly, the preliminary determination that evidentiary hearings are not required is confirmed.

3. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission’s Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

¹ The Parties understood that if the request to withdraw was not received by the Commission by August 5, 2016, the Commission on its own could dismiss the Application for lack of prosecution.

4. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Adeniyi A. Ayoade is the assigned ALJ in this proceeding.

Findings of Fact

1. Blue & Gold filed A.15-08-009 on August 10, 2015, to request authorization to adjust its passenger fares on its vessel common carrier service on between Tiburon on the one hand and authorized points in San Francisco on the other hand.

2. Notice of the Application appeared on the Daily Calendar on August 12, 2015.

3. On September 11, 2015, Golden Gate filed a response to the Application and on November 16, 2015, protests from the Tiburon, Belvedere, and Mr. Lukens were accepted for filing.²

4. Since at least December 2015, the Parties have engaged in settlement negotiations. Settlement negotiations are still ongoing between the Parties.

5. On July 26, 2016, the Parties appeared for a PHC and agreed to the following facts:

- (a) The Parties have reached an “agreement-in-principle,” but are unable to agree to a final settlement agreement in this proceeding until all conditions, necessary for Golden Gate to assume the commuter-hours service on the Tiburon/SF Service, are satisfied;
- (b) While Blue & Gold has agreed to meet all conditions, an unspecified amount of additional time would be required in order to satisfy the conditions, and before the Parties could prepare and submit a final settlement agreement to the Commission for approval; and

² Belvedere withdrew its protest on March 28, 2016.

(c) The Application was not ripe for resolution/adjudication and that Blue & Gold could withdraw its Application without prejudice and refile it when appropriate.

6. On August 5, 2016, Blue & Gold filed a request to withdraw A.15-08-009 without prejudice, and to be allowed to refile the Application at a later date.

7. No opposition to the request to withdraw was filed by any party.

8. There are currently no disputed facts or issues in A.15-08-009, and there is no need for hearings.

9. This proceeding is not ripe for Commission's decision or consideration.

Conclusions of Law

1. Blue & Gold's Application is not ripe for consideration at this time.

2. Blue & Gold's request to withdraw its Application should be granted, and the Application should be dismissed without prejudice.

ORDER

IT IS ORDERED that:

1. Blue & Gold Fleet, L.P.'s request to withdraw Application 15-08-009 is granted.

2. Application 15-08-009 is dismissed without prejudice.

3. If Blue & Gold Fleet, L.P. (Blue & Gold), refiles the Application, Blue & Gold, must reference this decision.

4. Application 15-08-009 is closed.

This order is effective today.

Dated _____, 2016, at San Francisco, California.