PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division **RESOLUTION TL-19051**
December 2, 2004

R E S O L U T I O N

RESOLUTION EXTENDING THE AUTHORITY GRANTED TO VESSEL COMMON CARRIERS BY RESOLUTION TL-19042 TO ADJUST THEIR FARES AND RATES WITHOUT SPECIFIC APPROVAL OF THE COMMISSION.

SUMMARY

This resolution extends for one year the authority granted 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 are within a "zone of reasonableness" whose upper limit is 15% above their currently authorized fares and rates. We acted in response to the requests of four VCCs[1] who were seeking relief from rapidly rising fuel costs. We agreed that 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 to the Commission.
The Consumer Protection and Safety Division (CPSD) advises that five of the

[1] These carriers are: Blue & Gold Fleet, Inc., Angel Island-Tiburon Ferry, Inc., Catalina Freight Line, and Harbor Bay Maritime, Inc. (operator of the Alameda Harbor Bay Ferry Service).

approximately 20 VCCs have filed fare and rate increases of varying degrees under authority of Resolution TL-19042. This authority is scheduled to expire on December 6, 2004.

CPSD has received a letter dated October 27, 2004, from Attorney Daniel F. Reidy on behalf of the same four VCCs who made the original request for relief. Mr. Reidy asks that the authority granted by Resolution TL-19042 be extended for one year. He states that factors cited in Resolution TL-19042 continue to be pertinent to the fuel prices issue at the present time and in the foreseeable future. Mr. Reidy explains that slight decreases in fuel costs in June 2004 compared to May gave some hope that fuel prices would come down, but instead the carriers' fuel costs rose steadily during the rest of the summer and then increased more steeply in September and October. He attributes the increases to the concerns of the international financial markets over fuel shortages due to increased global demand for energy for industrialization, the war in Iraq, international terrorism, and threats to oil production and distribution facilities in Nigeria and other troubled parts of the world.

In support of the request, Mr. Reidy provides actual costs experienced by the four carriers. For example, in Blue & Gold Fleet's operating budget for the Alameda/Oakland Ferry Service, fuel cost was budgeted at $1.10 per gallon throughout the calendar year. Actual costs in January were close to the budgeted figure. Fuel cost had increased to $1.52 per gallon by the beginning of April (when the original request for fare and rate relief was made), was $1.70 per gallon on September 24, and $1.75 per gallon on October 4. In the case of Angel Island-Tiburon Ferry, Inc., its costs rose from $1.04 per gallon in January 2004 to $1.77 on October 8.

Mr. Reidy recommends a one-year extension of the special authority granted by Resolution TL-19042. He states that the factors causing the higher fuel prices are not expected to be significantly improved in the near future. An extension for only another 180 days would mean that the carriers would have to consider making another request for a further extension, if needed, in month four of the extension period. Mr. Reidy adds that if fuel prices significantly decline in the near future, then the Commission could end the period of temporary authority as it did in 2002.[2]

DISCUSSION

The problem of rising fuel prices in California has not diminished since we issued Resolution TL-19042. As we stated then, we wish to provide VCCs with a simple process to obtain fare and rate relief. It is therefore appropriate to continue the authority to adjust fares and rates granted to VCCs by Resolution TL-19042.

Mr. Reidy gives good reason to extend the authority for a full year. CPSD will be monitoring fuel prices, and if price changes warrant cancellation or modification of the authority during the one-year period, we will act accordingly (as we did in 2002 when we cancelled the special authority prior to its scheduled expiration).

In Resolution TL-19042 we noted that by Decision 04-04-044, Catalina Channel Express, Inc. (Express) had been granted authority to increase its fares and to make future fare adjustments of up to 15% under a "competitive route zone of rate freedom." We therefore did not include Express in the temporary special authority to adjust fares and rates. Express should continue to be excluded from this authority.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), CPSD commenced publication of a Daily Calendar notice on November 2, 2004, that apprised the public of the availability of this draft resolution and solicited submission of comments by November 22, 2004. Copies of the draft resolution were mailed to Daniel F. Reidy and every VCC holding a certificate from the Commission. No comments were received.

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[2] VCCs were granted authority for 180 days to adjust fares by Resolution TL-18927, dated April 20, 2000. The authority was extended for one year by Resolution TL-18944, dated October 5, 2000, and for an additional one year by Resolution TL-18974, dated September 20, 2001. The authority was cancelled effective June 30, 2002, pursuant to Resolution TL-18989, dated March 6, 2002.

FINDINGS

1. In response to significant increases in fuel prices, the Commission by Resolution TL-19042 granted VCCs, except Express, authority for 180 days to adjust their fares and rates within a "zone of rate reasonableness" whose upper limit is 15% above currently authorized fares and rates.

2. The authority granted by Resolution TL-19042 will expire on December 6, 2004, unless it is extended by further order of the Commission.

3. The problem of rising fuel prices has not diminished since we issued Resolution TL-19042.

4. The authority granted by Resolution TL-19042 should be extended for one year unless earlier cancelled or modified by the Commission.

5. 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.

6. The tariff filings authorized by the following order are reasonable and justified.

THEREFORE, IT IS ORDERED that:

1. The temporary authority granted by Resolution TL-19042 permitting vessel common carriers (VCCs), except Catalina Channel Express, Inc., to file tariffs with fares and rates that are within a "zone of reasonableness" whose upper limit is 15% above currently authorized fares and rates is extended one year.

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

3. VCCs shall be allowed to exercise the action permitted under Ordering Paragraph 1 by making tariff filings that show a percentage surcharge on any or all of their tariff fares and rates within the range authorized.

4. Tariff filings authorized by this resolution shall expire one year after the effective date of this order absent further order by this Commission.

5. 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 2, 2004. The following Commissioners voted favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY