

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division

RESOLUTION TL-19089

June 21, 2007

RESOLUTION

**RESOLUTION REVISING PROCEDURES FOR THE ISSUANCE OF
CHARTER-PARTY CARRIER OPERATING AUTHORITIES**

SUMMARY

This resolution revises the procedures under which charter-party carrier operating authorities are issued. The principal change is to add the issuance of new charter-party carrier certificates to the types of applications the Executive Director may approve on behalf of the Commission. The procedural changes are being made in response to amendments to the Public Utilities Code that became effective January 1, 2007.

BACKGROUND

Charter-party carriers are regulated by the Commission pursuant to the Passenger Charter-Party Carriers' Act. (Public Utilities Code Section 5351 et seq.)¹ Carriers operate under one or more of the various types of permits and certificates issued by the Commission. There are three categories of certificates (designated Class A, B, and C) and three categories of permits (designated P, S, and Z). The authorities authorize different kinds of transportation services or limit the size of the vehicle that may be operated. Certificates and permits must be renewed every three years. Only certificates are transferable.

Section 5374 requires applicants for a charter-party carrier permit or certificate to establish reasonable fitness and financial responsibility. The section also prescribes specific requirements for the issuance of authorities, such as vehicle maintenance and safety standards, driver screening and training, controlled

¹ All statutory references are to the Public Utilities Code.

substance and alcohol testing, and workers' compensation insurance. Senate Bill (SB) 1840 amended Section 5374 effective January 1, 2007, in two significant respects: (1) the requirements for issuance of charter-party carrier permits and charter-party carrier certificates are now the same and (2) the Commission is empowered to delegate to the Executive Director, or the Executive Director's designee, the authority to issue new charter-party carrier certificates. Section 5374 previously did not include approval of new certificate applications among the matters the Commission could delegate to the Executive Director. Therefore, while for many years all other types of charter-party applications have been approved under delegated authority, new certificates have been granted via a formal resolution that is approved by the Commission at its regularly scheduled meetings.

SB 1840 also repealed Section 5375.1. That section required the Commission to hold a hearing whenever an applicant for a charter-party carrier certificate desired to operate in a territory already served by a certificate holder, and directed the Commission to deny the application unless the applicant showed that existing services were not satisfactory. The Commission has administered Section 5375.1 by listing each application for a charter-party carrier certificate in the Daily Calendar so that other potentially affected charter-party carriers have an opportunity to protest the application and request a hearing on the matter. The Commission has not received any protests to a charter-party carrier certificate application in many years.

DISCUSSION

The changes enacted by SB 1840 will enable us to streamline the process for granting charter-party carrier authorities. In particular, we will be able to avoid delays in the issuance of new charter-party carrier certificates that are attributable to placing a notice of the applications in the Daily Calendar for a 30-day protest period and requiring their formal approval by the Commission.

Amended Section 5374 does not establish any new requirements for issuing charter-party carrier authorities (other than making permit applicants meet the same requirements as certificate applicants). The Commission's staff is very experienced at reviewing applications for authority and ensuring that all statutory requirements are met. The License Section utilizes a standard application form, and the application packet contains a comprehensive set of instructions and guidelines to assist applicants in meeting all of the requirements

for obtaining authority. For vehicle safety standards, this includes sample maintenance and inspection forms utilized by the California Highway Patrol. It therefore is reasonable and appropriate for the Commission to continue and to expand the Executive Director's authority to issue, renew, and authorize the transfer of charter-party carrier authorities. As permitted by Section 5374(c), we will authorize the Executive Director to assign a designee to carry out these ministerial functions.

In addition, we will discontinue placing a notice of charter-party carrier certificate applications in the Daily Calendar. With the elimination of Section 5375.1, this practice serves no useful purpose.

COMMENTS ON DRAFT RESOLUTION

To comply with Pub. Util. Code § 311(g), a notice was published in the Daily Calendar on May 17, 2007, that apprised the public of the availability of this draft resolution and solicited submission of comments by June 6, 2007. No comments were filed.

FINDINGS

1. The Commission's regulation of charter-party carriers is governed by the Passenger Charter-Party Carriers' Act.
2. Section 5374 prescribes requirements for the issuance of charter-party carrier permits and certificates.
3. Except for new certificates, applications involving charter-party carrier operating authority have been granted by the Executive Director under delegated authority.
4. SB 1840 amended Section 5374 and repealed Section 5375.1 effective January 1, 2007.
5. Amended Section 5374 prescribes the same requirements for issuance of a charter-party carrier permit as a charter-party carrier certificate and provides that the Commission may delegate to its Executive Director, or the Executive Director's designee, the authority to issue, renew, or authorize the transfer of charter-party carrier permits and certificates, and to make findings specified in Section 5374(a) that are necessary to that delegated authority.
6. The Commission's practice has been to place a notice in its Daily Calendar of each charter-party carrier certificate application received, and to provide

other carriers with the opportunity to protest the application and request a hearing on the matter.

7. The Commission has not received any protests to a charter-party carrier certificate application in many years.
8. The Commission's staff utilizes a standard application form for charter-party carrier permits and certificates and provides applicants with a comprehensive set of instructions and guidelines for completing the application requirements.
9. The Commission's staff has the knowledge and experience necessary to verify that an applicant for a charter-party carrier permit or certificate has met the requirements of Section 5374.
10. The process of issuing, renewing, and transferring charter-party carrier authorities is made more efficient by delegating to the Executive Director, or the Executive Director's designee, the authority to act on the Commission's behalf.

CONCLUSIONS OF LAW

1. The Commission should, consistent with Public Utilities Code Section 5374(c), authorize the Executive Director, or the Executive Director's designee, to issue and renew charter-party carrier permits and to issue, renew, and authorize the transfer of charter-party carrier certificates, and to making the findings specified in Section 5374(a) that are necessary to that delegated authority.
2. The practice of placing a notice of each charter-party carrier certificate application in the Daily Calendar is no longer appropriate and should be discontinued.
3. All prior delegations of authority to the Executive Director for the issuance, renewal, and transfer of charter-party carrier authorities should be canceled.

THEREFORE, IT IS ORDERED that:

1. The Executive Director, or the Executive Director's designee, is authorized to issue and renew charter-party carrier permits and to issue, renew, and authorize the transfer of charter-party carrier certificates upon the applicant's compliance with the requirements of Public Utilities Code Section 5374, and to make the findings specified in Section 5374(a) that are necessary to that delegated authority.

2. The practice of placing a notice of every charter-party carrier certificate application in the Daily Calendar shall be discontinued.
3. All prior delegations of authority to the Executive Director for the issuance, renewal, and transfer of charter-party carrier authorities are canceled.

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 June 21, 2007. The following Commissioners voted favorably thereon:

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners