

Decision 02-06-064 June 27, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the application of Catalina Channel Express, Inc. (VCC-52) a California corporation, to increase the baseline rate for its Zone of Rate Freedom authority to the level of its current rates and to establish a new Zone of Rate Freedom for its vessel common carrier service.

Application 02-02-002  
(Filed February 4, 2002)

**O P I N I O N**

**Summary**

This decision grants the application of Catalina Channel Express, Inc. (Applicant), a corporation, to increase baseline fares on its passenger vessel service to Catalina Island. The authorized increases range between 7.1% and 10%.

**Background**

Applicant is a vessel common carrier (VCC) authorized to transport passengers and their baggage in scheduled service between Los Angeles Harbor (San Pedro), Long Beach Harbor, and Dana Point, on the one hand, and points on Catalina Island, on the other hand, and between points along the shoreline of Los Angeles and Long Beach Harbors. Applicant is also authorized to provide nonscheduled service to Catalina Island from Los Angeles and Long Beach Harbors, and between points on the island.

In December 1998 the Commission authorized Applicant to establish a zone of rate freedom (ZORF) of 10% above and below its then existing fares.

Those fares were established in April 1996 pursuant to Decision (D.) 96-04-048, and continue to serve as the baseline fares from which Applicant can increase or decrease fares 10% without prior Commission approval. Applicant's current fares for its cross-channel scheduled service are at or near the high end of the ZORF. It requests authority to make these fares new baseline fares for purposes of applying the ZORF.

Applicant cites a number of factors to justify an increase in baseline fares. During the period 1996-2001 it invested \$19 million in three new high-speed vessels. Applicant has also seen diminished ridership as a consequence of the 2001 economic downturn and the events of September 11. In October, November and December, 2001, it saw passenger counts decline up to 20% below their 2000 figures. This caused a direct fall in revenue with little or no decrease in costs since service levels were not changed. At the same time, Applicant has experienced increases in insurance expenses and new costs for the security of passengers and vessels as imposed by the Coast Guard. Employee compensation and related costs have increased at cost-of-living or higher levels.

According to Applicant, its request will result in fare increases below the level of increase of the Consumer Price Index. For example, the adult round-trip fare for Applicant's high-speed service between San Pedro/Long Beach and Avalon was \$34 in April 1996. The existing fare under the ZORF (which Applicant requests to make its new baseline fare) is \$37, or 8.8% higher than in April 1996. Applicant's calculations show the CPI increasing 13.5% over the period April 1996 to October 2001.

Applicant believes the cited cost factors justify its request to increase baseline fares and demonstrate a need for the fare flexibility provided by the previously authorized ZORF. Applicant states that the ZORF enables it to either

increase or decrease fares depending on the economies that are presented and to set fares at a level that is reasonable to passengers but will provide for profitable operations for an efficiently run passenger vessel service. In its view, it has demonstrated a reasonable measure of discretion in establishing passenger fares under its ZORF and the recent Commission-authorized fuel surcharge.<sup>1</sup> When its fuel costs more than doubled it increased fares less than half the authorized amount. When fuel prices fell, Applicant discontinued the surcharge except for Dana Point, where the surcharge was reduced 50% because fuel costs more at Dana Point than at San Pedro or Long Beach.

Applicant states that it continues to operate in a competitive market under the “open competition” policy established by the Commission in D.97-11-027 for passenger vessel service to Catalina Island. It also points to new services authorized or seeking to be authorized to provide competitive cross-channel services.

### **Discussion**

The ZORF is a ratesetting concept the Commission has utilized with respect to passenger stage carriers under Public Utilities (Pub. Util.) Code § 454.2 for many years. The Commission extended the ZORF concept to VCCs in the

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<sup>1</sup> On April 20, 2000, we issued Resolution TL-18927, authorizing all VCCs to temporarily adjust their fares within a “zone of reasonableness,” that had an upper limit of 15% above their current fares (or in the case of Applicant, 15% above the top of its ZORF). This action was taken in response to sudden and significant increases in fuel prices. The special surcharge authority was extended twice. It was canceled effective June 30, 2002, by Resolution TL-18989. This resolution provided that any VCC that filed a formal application for rate relief by June 30 could continue to assess any surcharge in effect until the Commission acted on its application.

1998 decision<sup>2</sup> that authorized Applicant's ZORF. We concluded that authorization of ZORFs is consistent with our policy of relying upon competition to regulate the transportation marketplace, where competition exists between substantially similar established carriers. We found that Applicant's cross-channel passenger transportation services operated in competition with services provided by substantially similar VCCs, and that a ZORF of up to 10% above or below Applicant's authorized fares would be fair and reasonable.

Applicant's current baseline fares were established six years ago. It has demonstrated that cost increases and reduced passenger revenues justify an increase in baseline fares. We will therefore authorize Applicant to increase its baseline fares between 7.1% and 10% as shown in Exhibit A of the application. Under the ZORF authority granted by D.98-12-016, Applicant will be able to adjust its fares up to 10% above or below the new baseline fares by filing amended tariffs on not less than 10 days' notice to the Commission and the public.

Notice of filing of the application appeared in the Commission's Daily Calendar on February 6, 2002.

In Resolution ALJ 176-3081 dated February 7, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3081.

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<sup>2</sup> D.98-12-016 in Application 98-04-051.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

**Findings of Fact**

1. Applicant is currently authorized to operate as a VCC.
2. Applicant was authorized to establish a ZORF by D.98-12-016.
3. Applicant's current baseline fares were authorized by D.96-04-048.
4. Applicant requests to increase its baseline fares for scheduled cross-channel service to the level of its current ZORF fares as described in Exhibit A of the application.
5. The proposed increases raise baseline fares between 7.1% and 10%.
6. The increase in baseline fares is reasonable.
7. No protest to the application has been filed.
8. A public hearing is not necessary.

**Conclusions of Law**

1. The application should be granted.
2. Since the matter is uncontested, the decision should be effective on the date it is signed.

**O R D E R**

**IT IS ORDERED** that:

1. Catalina Channel Express, Inc. (Applicant), a corporation, is authorized to establish the increased baseline fares proposed in Exhibit A of the application.
2. To implement the increases authorized in this order, Applicant shall, on or after the effective date of this order, file revised tariff pages in accordance with

General Order 117 Series. The revised pages and the fares listed in them shall be made effective no earlier than 10 days after the date of filing.

3. The Zone of Rate Freedom (ZORF) authorized by Decision 98-12-016 shall apply to the new baseline fares authorized by this order.

4. Applicant may make changes within the ZORF by filing revised tariff pages on not less than 10 days' notice to the Commission and to the public. The tariff shall include between each pair of service points the baseline fare, the authorized maximum and minimum fares, and the fare to be charged.

5. In addition to posting and filing tariffs, Applicant shall post notices explaining the fare changes in its terminals and freight-carrying vessels. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least thirty days.

6. The Application is granted as set forth above.

7. This proceeding is closed.

This order is effective today.

Dated June 27, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
CARL W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners