



PUBLIC UTILITIES COMMISSION

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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 23-02-017:

This is the proposed decision of Administrative Law Judge Lena Afary. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's June 26, 2025, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC:abb

Attachment

Decision **PROPOSED DECISION OF ALJ AFARY (5/16/2025)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CATALINA
CHANNEL EXPRESS, INC. (VCC-52),
a California Corporation, to increase
the baseline rates for its vessel
common carrier service and to
retain its existing Zone of Rate
Freedom.

Application 23-02-017

**DECISION GRANTING CATALINA CHANNEL EXPRESS, INC. (VCC-52), AN
INCREASE IN BASELINE RATES FOR ITS VESSEL COMMON CARRIER
SERVICE AND TO RETAIN ITS EXISTING ZONE OF RATE FREEDOM**

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**DECISION AUTHORIZING CATALINA CHANNEL EXPRESS INC
A GENERAL FARE INCREASE AND ZONE OF RATE FREEDOM**

Summary

This Decision grants Catalina Channel Express, Inc. (Applicant) the authority to initiate a general fare increase of sixteen-point sixty-seven percent (16.67%) pursuant to Public Utilities Code Sections 454 and 491. This Decision also grants Applicant continued authority to establish a 20% Zone of Rate Freedom (ZORF) above and below the base rate for 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.

This decision affirms that there is no need to prepare an Environmental Impact Report, Negative Declaration, or a mitigated Negative Declaration. This decision affirms that the application aligns with the goals of the California Public Utilities Commission's Environmental and Social Justice Action Plan.

Application 23-02-017 is closed.

1. Background.

1.1. Factual Background

Applicant is a vessel common carrier holding VCC-52 license. Applicant is authorized to transport passengers and their baggage in scheduled service between Los Angeles Harbor-San Pedro, Long Beach Harbor, and Dana Point and points on Catalina Island, as well as 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. Applicant states that it has provided service between Santa Catalina Island and the Mainland for over 42 years.¹

Applicant has provided exhibits setting forth a complete list of their present and proposed fares and the ZORF range for the requested new fares.² Applicant states that the baseline rate for the most purchased ticket (adult, round trip, between Long Beach or San Pedro and Avalon) would increase from \$60 to \$70 with this approval³ and that the ZORF range (plus or minus 20%) would be a range of between \$56 to \$84. The senior citizen rate would be roughly 10% less of these listed fares.

As justification, Applicant provides a brief history of their current fares, noting that their ZORF similarly provides context to the application showing the reasonability of the proposed fares. Applicant's current baseline rates were approved in 2008 in Decision D. 08-07-036.⁴ That decision approved Applicant's baseline fare for a roundtrip adult ticket on Applicant's most frequently traveled route (Long Beach/San Pedro to Avalon and back) to be raised to \$60.

On June 23, 2022, the Commission issued Resolution TL-19139 authorizing each vessel common carrier (VCC) to adopt a temporary ZORF tariff revision to reflect dramatic increases in the cost of fuel ("Temporary Fuel Cost Surcharge"). Resolution TL-19139 provided that: "For VCCs [such as Applicant] that have been granted a Zone of Rate Freedom (ZORF), the upper limit shall be 20% above

¹ Application at 6.

² *Id.* at Exhibit-A.

³ *Id.* at 6.

⁴ See In the Matter of the Application of Catalina Channel Express, Inc. (VCC52), a California corporation, to increase the baseline rates for its Zone of Rate Freedom and to extend its Zone of Rate Freedom for its vessel common carrier service, A. 08-04-039 (D. 08-07-036, August 1, 2008).

the fares and rates on tariffs currently filed with the Commission.”⁵ Resolution TL-19139 was to expire on June 23, 2023, but was extended by the Commission, on May 15, 2025. The continuation of this resolution is a temporary fix that requires yearly renewal.

Applicant seeks authority to increase its base fares by roughly 16.67% and to retain its existing ZORF, one approved by the Commission in D. 06-12-022.⁶ As a basis of relief in part, Applicant contends that since the date of this filing, the cost of fuel has not dropped significantly from the levels on which TL-19139 relied. Moreover, as of January 12, 2023, the California Air Resources Board (“CARB”) requires Applicant to use a more expensive fuel than it used in 2022 and prior years requiring the fare increase.⁷

1.2. Procedural Background

Applicant filed this Application on February 24, 2023, requesting authority to increase its base fares by roughly 16.67% and to retain its existing 20% ZORF in D. 06-12-022. On February 27, 2023, Applicant filed their “Motion for Leave to File Under Seal a Portion of Financial Statements – Exhibit-B to Application.” As noted, Applicant is a vessel common carrier holding VCC-52 license.

Applicant is authorized to transport passengers and their baggage in scheduled service between Los Angeles Harbor in San Pedro, Long Beach Harbor, and Dana Point and points on Catalina Island. Applicant also provides passenger service between points along the shoreline of Los Angeles and Long Beach Harbors. Finally, Applicant is authorized to provide nonscheduled

⁵ Application at 8-9; Res. TL-19139 (June 23, 2022) at Ordering Paragraph 1.

⁶ Application at 9.

⁷ Application at 9.

passenger service to Catalina Island from Los Angeles and Long Beach Harbors, and between points on the Island.

Applicant filed its Notice of Compliance with Rule 3.2(b) on March 1, 2023. On April 6, 2023, the Commission issued Resolution ALJ-176-3525 Categorizing this matter as a ratesetting proceeding. The Commission issued a notice setting this matter for a pre hearing conference on July 25, 2023, and this matter came for a pre hearing conference on August 31, 2023. The Scoping Ruling (Scoping Memo) issued on April 26, 2024, confirming the initial categorization of the proceeding as ratesetting and adopting a scope and schedule for the proceeding including a determination that evidentiary hearings were not necessary. The Scoping Memo also extended the statutory deadline for this proceeding by six (6) months from August 24, 2024, up to and including Thursday February 20, 2025. On January 20, 2025, the Commission extended the statutory deadline by one final extension to July 25, 2025.

On July 2, 2024, the Administrative Law Judges assigned to this application and two other applications issued a joint ruling with notice of a status conference to determine the ownership structure and address questions of monopoly of three ferry companies, including Applicant, Pacific Maritime Group (VCC-88) (PMG) and Avalon Freight Services LLC (VCC-91). The three companies appeared through their representatives and counsel of record on August 2, 2024, by virtual Webex hearing. At issue was whether Applicant and the other ferry corporations applying for a zone of rate increase in similar manners were operating as monopolies or as competitive enterprises for service to and from Catalina Island.

On July 2, 2024, the assigned ALJ for Application of Avalon Freight Services LLC (VCC-91),⁸ and the assigned ALJ for A.22-10-013, in the Matter of Application for Pacific Maritime Group, Inc. (PMG) (VCC-88) and for this matter issued a joint ruling establishing a joint status conference to discuss the ALJs' questions common to the three proceedings. The ruling included additional questions of ownership structure composed by the Commission. Applicant filed a response to those questions on July 26, 2024. PMG filed a response to those questions on July 26, 2024. On August 2, 2024, the joint status conference was held with the applicable parties, the assigned ALJs and the Assistant Chief ALJ assigned to the three proceedings.

1.3. Submission Date

This matter was submitted on August 2, 2024, upon completion of the aforementioned joint status conference.

2. Jurisdiction

Article XII of the California Constitution and Section 701 of California Public Utilities (Pub. Util.) Code provides the Commission with broad authority to establish rules relating to the transportation of passengers and property by transportation companies. The Commission has jurisdiction over requests for rate adjustments per, among others, Pub. Util. Code Section 454 and Section 491. Pub. Util. Code Section 454.2 permits the Commission to establish a ZORF for any passenger stage transportation service which is operating in competition with other passenger transportation service providers. The Commission

⁸ See Application of Avalon Freight Services LLC (VCC-91) For Authorization to Modify Rates for Its Scheduled Vessel Common Carrier Freight Service Between the Port of Los Angeles, California on the one hand, and Avalon on Santa Catalina Island on the other hand. Application A.23-11-013.

extended the ZORF concept to VCCs by D.98-12-016.⁹ The Application meets the requirements in Rule 3.2 for authority to increase rates.

3. Issues Before the Commission

Applicant states that the sole issues are whether:

1. The increases to Applicant's baseline fares sought herein are just and reasonable; and
2. Applicant's existing ZORF should continue to be authorized.¹⁰

The Scoping Memo determined the issues for this proceeding as follows:

- a. Does the Applicant's data showing actual and projected revenues and expenses, and other data supporting its representations, justify the requested fare increases under Public Utilities Code Sections 454 and 454.2?
- b. Is the Applicant affiliated with, share common ownership with and/or conduct coordinated business operations with any other business entity providing, passenger, freight and/or docking services on Catalina Island?
- c. Is there a competitor or competitors providing similar and/or overlapping services as that currently provided by the Applicant? If not, is the proposed passenger transport rate increase justified, necessary, and reasonable given that the Applicant is operating as a monopoly?
- d. Is the projected Operating Ratio, which would result from the proposed rate increase, within the reasonable range of prior Commission approvals of passenger transport rates increases for vessel common carriers; and,

⁹ See D.02-10-004, Finding of Fact 2.

¹⁰ Application at 4.

- e. Is it reasonable for the Commission to authorize Applicant to adjust its passenger transport rates within a Zone of Rate Freedom (“ZORF”) for up to 20% above and below its base freight transport rates. Should the Commission authorize a 20% ZORF?
- f. Does the application comply with the requirements for a ZORF pursuant to Pub. Util. Code Section 454.2?
- g. Does this application align with or impact the achievements of any of the goals of the Commission’s Environmental and Social Justice Action Plan?¹¹

4. Request for Base Rate Increase and ZORF.

Applicant requests authority to increase its base rates by 16.67% for its scheduled and non-scheduled passenger vessel common carrier service between authorized Southern California mainland points and authorized points on Santa Catalina Island and between authorized points throughout Santa Catalina Island ports. Applicant also seeks to retain its currently authorized ZORF 20% above and below the proposed new baseline fares. As noted, Applicant states that the increase proposed fare for the most commonly sold ticket (an adult roundtrip between San Pedro or Long Beach and Avalon) is 16.67%, an increase from \$60 to \$70. Applicant states that the proposed increases of other fares are approximately the same noting fare levels are set at even dollar or half-dollar amounts. We construe this statement as meaning Applicant will not need to increase the number of trips associated with their VCC license.

Applicant proposes the modified rates in Exhibit-A of its application which shows the company’s current base rates, the currently charged rates (base rates temporarily adjusted pursuant to the fuel cost surcharge per Commission

¹¹ Scoping Memo at 2-3.

Resolution TL-19141) and the proposed ZORF range of plus or minus¹² 20%.¹³ Decision No. 98-12-016 states that, “[t]he Commission may lawfully exercise discretion to allow a vessel common carrier to establish a ZORF under Article XII, Section 4 of the California Constitution and Section 701 of the Public Utilities Code.”¹⁴ Exhibit-A showing present and proposed rates is attached to this decision as Attachment-1.

4.1. Increased Fuel Costs and Regulatory Requirements.

Applicant cites in its application many of the factors that contribute to increased costs, both current and anticipated. One expense is related to increases in the cost of Ultra-Low Sulfur fuel.¹⁵ Applicant is also faced with new regulations from the California Air Resources Board (CARB) to use renewable diesel, which is more expensive than the currently used Ultra-Low Sulfur fuel. Applicant anticipates these new regulations, the increase in fuel costs for low diesel fuel, new regulations for Commercial Harbor Craft, increase in the costs of liability insurance and labor costs, and an overall increase in costs necessitate a raise in the base rate and continuation of the existing ZORF.¹⁶

¹² Applicant notes in the table that, “[c]urrent round-trip fares do not include wharfage fees, or “landing fees” assessed by the City of Avalon and Two Harbors, or points on Catalina Island.” Application, Exhibit-A at 1-4 (notes).

¹³ See Application at 1, Exhibit-A.

¹⁴ Application at 1 citing, Catalina Channel Express, Decision No. 98-12-016, 1998 Cal. PUC LEXIS 868, 83 CPUC2d 265 (Conclusion of Law No. 1)

¹⁵ Application at 11.

¹⁶ See generally, Application, at 11-14.

4.2. Fuel Surcharge.

On June 3, 2024, the Commission issued Resolution TL-19148¹⁷ extending the 20%, “Zone of Reasonableness” fuel surcharge by Resolution TL-19139. This Resolution was to expire on June 23, 2023, but was extended by the Commission on May 15, 2025. This resolution is a temporary fix that requires yearly renewal. No conditions changed from the previous fuel surcharge authorized under TL-19141.¹⁸ TL-19148 states that a VCC should not be able to continue to benefit from the Zone of Reasonableness once a Decision has been issued for its application for a fare and/or rate increase.¹⁹ Resolution TL-19141, which authorized the previous Zone of Reasonableness, also allowed a 20% fuel surcharge.²⁰ Applicant requests an implemented rate increase of 16.67%. While somewhat high, it is not up to the allowed maximum of 20% and is therefore allowed.

4.3. Determination of Reasonable Costs

Applicant estimates that increasing its base rates by 16.67% would result in a future operating ratio of 93.56%.²¹ Applicant notes this increase will result in

¹⁷ See Resolution TL-19148 at 1.

¹⁸ See Resolution TL-19148 at 3.

¹⁹ *Id.* at Finding 7 and Ordering Paragraph 2.

²⁰ *Id.* TL-19148 at 1:

[The] resolution extends for an additional one year the authority granted originally by Resolution TL-19139 (2022) and subsequently extended by Resolution TL-19141 (2023) to vessel common carriers that have current Applications being adjudicated, allowing them the authority to continue to adjust their fares and rates up to 20% within a “Zone of Reasonableness” without specific Commission authorization until a Decision to their Applications has been adopted. This action is being taken in response to the significant increases in fuel prices in California.

²¹ See Application at 16.

the same operating ratio it had in 2008, a determination previously adjudicated by the CPUC as acceptable.²² Based on the revenues and expenses outlined in Confidential Exhibit-C of the Application, the revenues Applicant estimates it will generate in the future year at the current base rates plus an additional 16.67% to the Temporary Fuel Cost Surcharge would result in an operating ratio of 93.56%, an operating ratio lying within the range deemed reasonable by the Commission.

Applicant describes the driver of the higher operating ratio as increased overall expenses, not lower revenues. Section X of the Application addresses generally higher costs. Applicant notes that their, “expenses have significantly increased since its last baseline rate increase over 14 years ago. Since 2008, the Consumer Price Index has increased 42.4%, from 222.823 in August 2008 (when Applicant’s base rates were last set) to 317.477 in January of 2023.”²³

Applicant states that the increase cost of ultra-low sulfur CARB diesel, new regulations for commercial harbor craft, and the increase in labor and liability insurance costs, justify their request for an increase in rates. Applicant appears to make the argument that its expected operating ratio in the forthcoming year will be higher both specifically due to the Consumer Price Index increase as well as the higher costs of fuel, CARB regulatory compliance, labor, and insurance costs. It is clear from the application why Applicant is requesting the rate base increase they are asking for (i.e. to account for Increase in Overall Expenses , Increase in Fuel Costs, New Regulations for Commercial Harbor Craft, and other

²² *Id.* at 16, note 53, citing *Balboa Island Ferry, Inc.*, Decision 20-02-055 (February 27, 2020) 2020 WL 1667248 “An OR within the range of 90 - 100% has been considered an acceptable ratio.”

²³ Application at 11.

accompanying expenses). This request results in an operating ratio²⁴ of 93.56%. The Commission has determined in prior decisions that an operating ratio (profitability) of 90-100% is acceptable. The Commission determines that the request by Applicant for a 16.67% base rate increase is reasonable and is therefore granted.

5. Continued Zone of Rate Freedom Application.

The Application requests a Zone of Rate Freedom (ZORF) of up to 20% above or below the new base rate. Applicant states that a ZORF will permit it to respond to changes in costs or market conditions. Applicant reminds the Commission that, "Applicant has been authorized to maintain a 20% ZORF for the last fourteen years. In that time, Applicant has never raised rates to the maximum allowed by its ZORF."²⁵

Applicant says the requested relief is necessary, in part, to address the expiration of the fuel cost surcharges authorized by Resolution TL-19141. This fuel cost surcharge was extended by Resolution TL-19148 and was scheduled to expire on June 23, 2025. It was extended by the Commission on May 15, 2025 but is considered a temporary fix requiring yearly approval. Applicant wishes to continue to apply the 20% ZORF they have been granted for the past fourteen-years.

²⁴ An increase in the operating ratio equates to a reduction in operating profit. The operating ratio is equal to a carrier's operating costs divided by its revenues derived from those costs. In other words, "expenses is a percent of revenue." An operating ratio of less than 100%, therefore, equates to an operating profit while an operating ratio in excess of 100% shows a loss because it indicates that operating expenses exceeded operating revenues during the period measured. See Application at 16, Footnote 48.

²⁵ Application at 14.

Applicant states that the, “ZORF flexibility permits the Applicant to address its need to maintain ridership by holding rates to affordable levels.”²⁶ They continue, noting, “[n]otwithstanding the fact that customer revenues are variable, Applicant’s costs are generally fixed. It costs Applicant the same amount to carry 10 or 200 passengers on a trip between Avalon and the Mainland.”²⁷ Applicant states that, “[t]he ZORF is essential to allow Applicant to meet the downward price pressures of remaining competitive as well as the upward price pressures of meeting increased operating costs.”²⁸ They conclude noting, however that, “Applicant’s need to maintain affordable fares while also recovering changing costs have caused Applicant to increase and decrease its fares many times in the twenty-two years the Commission has authorized Applicant to employ a ZORF[,]” but they have, “never, however, increased its fares to the highest level of its ZORF.”²⁹

5.1. About Zones of Rate Freedom.

Article XII of the California Constitution provides the Commission with broad authority to establish rules relating to the transportation of passengers and property by transportation companies: “The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies[.]”³⁰ Pub. Util. Code Section 701 also similarly provides the Commission with this broad authority: “The commission may supervise and regulate every public utility in the State and may do all things,

²⁶ *Id.*

²⁷ *Id.* at 14-15.

²⁸ *Id.*

²⁹ Application at 15.

³⁰ See California Constitution, Article XII, Section 4.

whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.”³¹

California Public Utilities Code 454.2 permits the Commission to establish a ZORF, stating that:

[T]he commission may establish a ‘zone of rate freedom’ for any passenger stage transportation service which is operating in competition with other passenger transportation service from any means of transportation, if the competition together with the authorized zone of rate freedom will result in reasonable rates and charges for the passenger stage transportation service. An adjustment in rates or charges within a zone of rate freedom established by the commission is hereby deemed just and reasonable. The [C]ommission may, upon protest or its own motion, suspend any adjustment in rates or charges under this section and institute proceedings under its rules of practice and procedure.³²

The Commission extended the ZORF concept to VCCs by D.98-12-016.³³

5.1. ZORF Discussion

Applicant states that it would be difficult to continue operations without the requested ZORF. Applicant cites disruptions in the fuel markets that introduce uncertainty partially due to costs, insurance, labor, and lack of subsidies, and partially due to CARB regulations and its need to be able to react quickly to changes in the fuel market, either expected or unexpected.³⁴

Applicant states that authorizing it to apply a ZORF to its current rates will alleviate the need for frequent rate applications to respond to rising costs and

³¹ See Pub. Util. Code Section 701.

³² See Pub. Util. Code Sec. 454.2

³³ See D.02-10-004, Finding of Fact 2.

³⁴ Application at 1-11; See also Catalina Channel Express Response provided at Joint Status Conference with Avalon Freight Service (A.23-11-013), Catalina Channel Express (A.23-02-017) and Pacific Maritime Group (A.22-10-013) on August 2, 2024 at 4.

will not result in unreasonable rates, as in the 14 plus years of their operation under the present ZORF they have yet to raise prices to the maximum limit.³⁵

In both its Application³⁶ and Response to the ALJ Ruling Requesting Additional Information filed July 25, 2024,³⁷ Applicant cites D.98-12-016, *Catalina Channel Express*, in support of the Commission awarding a ZORF. In its citation, Applicant points out the Commission, “may lawfully exercise discretion to allow a vessel common carrier to establish a ZORF under Article XII, Section 4 of the California Constitution and Section 701 of the Public Utilities Code.”³⁸

At issue in the Joint Status Conference of August 2, 2024, and preceding ruling with questions, was whether the three companies, Applicant as Catalina Channel Express, Pacific Maritime Group, and Avalon Freight Service operated in competition with each other and with other carriers. In D.98-12-016 the Commission pointed out that Catalina Channel Express operated in competition with other passenger carriers on the route, and this was cited as a reason to grant the ZORF.

In that decision, the Commission says “[t]he Commission’s policy with respect to cross-channel vessel services between California mainland points and the Island favors more open competition than has heretofore existed on these routes, and we have exercised this policy in our recent decisions concerning the establishment of new services on these routes.”³⁹ The Commission also stated

³⁵ Application at 14.

³⁶ Application at 14, Response at 4.

³⁷ See “Response of Catalina Channel Express, Inc. to Questions Posed by the Joint Assigned Administrative Law Judges’ Ruling Setting a Remote Joint Status Conference, dated July 25, 2024, at 4.

³⁸ Application at 19-20.

³⁹ See D.98-12-016, Conclusion of Law 2.

that the, “[a]uthorization of ZORFs is consistent with reliance upon competition to regulate the transportation marketplace, where competition exists between substantially similar established carriers.”⁴⁰ Applicant provided information supporting their contention that they still have competition with other VCC services serving Santa Catalina Island both at hearing and in their written responses.

At hearing and in response to the written question, “Is there any competition with your VCC service? (a) If so, what [is] the nature of the competition?” Applicant responded⁴¹:

Yes. Other VCCs are authorized to provide vessel passenger service between the Mainland and Santa Catalina Island including Catalina Passenger Service, Inc. dba “Catalina Flyer” (VCC-47), Catalina Classic Cruises (VCC-86), and Harbor Breeze Corporation (VCC90). Like all VCCs serving Santa Catalina Island, CCE also competes with myriad other recreational opportunities in Southern California. CCE’s potential ridership has a lot of options on the Mainland.

In the discussion during the August 2, 2024, status conference, the issues centered around whether the VCCs at issue all had access to the freight dock at Pebbly Beach, a location on Santa Catalina Island used solely for the transportation of freight. Applicant is a passenger carrier who does not transport freight other than luggage brought by passengers to and from the Island. Similarly, there are at least two, if not three, other VCC passenger carriers who operate to and from the island.⁴² The Commission is satisfied that Applicant

⁴⁰ See D.98-12-016, Conclusion of Law 3.

⁴¹ Response at 3.

⁴² Transcript of August 2, 2024, Status Conference at 27-28.

operates in competition with other VCC passenger carriers serving Santa Catalina Island.

6. Compliance with the California Environmental Quality Act

The Commission is obliged to determine whether an application for a base fare increase is subject to environmental review pursuant to the California Environmental Quality Act (CEQA), and we do so here. CEQA requires the lead agency⁴³ to conduct an environmental review of any “project” for consideration in determining whether to grant the requested authority. CEQA Guideline Section 15378(a) define “project” in relevant part as follows:

“Project” means the whole of an action, which as a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is ...[a]n activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

The proposed base fare increase requested by Applicant will not change its VCC service and is not expected to increase trips. It therefore will not result in a direct physical change to the environment or a reasonably foreseeable indirect physical change in the environment. Accordingly, the proposed base fare increase is not a “project” and is, therefore, not subject to environmental review pursuant to CEQA.

⁴³ A Lead Agency is a public agency that has the principal responsibility for carrying out or approving a project. The Lead Agency is responsible for determining whether its approvals are subject to CEQA environmental review and, if so, determining whether a Negative Declaration, Mitigated Negative Declaration (MND), or Environmental Impact Report (EIR) needs to be prepared. The Lead Agency is responsible for preparation of the required Negative Declaration (ND), Mitigated Negative Declaration, or EIR. (Cal. Code Regs. tit. 114, §§ s 15052(a)(3) and 15096(e); *see generally*, Cal. Govt. Code §§ 65100–65700).

7. Compliance with Commission's Environmental and Social Justice (ESJ) Action Plan

On April 7, 2022, the Commission adopted version 2.0 of its ESJ Action Plan as a comprehensive strategy and framework for addressing ESJ issues in each proceeding. Environmental justice means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, and enforcement of environmental laws, regulations, and policies. The Commission's ESJ Action Plan identifies existing inequities and proposes actions for how the Commission can use its regulatory authority to address health and safety, consumer protection, program benefits, and enforcement to encompass all the industries it regulates, including energy, water, and communications programs. Goal 3 of the Commission's ESJ Action Plan is to improve access to high-quality water, communications, and transportation services for ESJ communities.

ESJ communities on the Island benefit from the ongoing availability of transportation to and from the California mainland. We conclude that this decision meets with the Commission's ESJ Action Plan goals.

8. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

9. Conclusion

It is the conclusion of the Commission that it is reasonable to grant a general fare increase of 16.67% pursuant to Public Utilities Code Sections 454 and 491. This Decision also grants Applicant continued authority to establish a 20% ZORF above and below the base rate for service between Los Angeles Harbor in

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.

10. Procedural Matters

Applicant's February 27, 2023, Motion, entitled "Motion for Leave to File Under Seal a Portion of Financial Statements – Exhibit-B to Application" is granted. Applicant states that public disclosure of the information in the exhibits could subject them and the entities with which it does business to potential fraud and security issues as well as unfair business disadvantage in negotiations with vendors, customers, and other entities with which Applicant has business dealings. Therefore, Applicant has pleaded facts sufficient to show good cause in favor of granting this motion.

Applicant's motion to file exhibits under seal is granted for a period of three years after the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or the Administrative Law Judge's ruling. If Applicant believes that it is necessary for this information to remain under seal for longer than three-years, they may file a new motion showing good cause for extending this order by no later than 30-days before expiration of this order.

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

11. Comments on Proposed Decision

The proposed decision of ALJ Lena Afary in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

Public Utilities Code section 311 provides that this decision must be served on all parties and subject to at least 30 days of public review and comment prior to a vote of the Commission. Section 311 also provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding. The 30-day comment period for the draft of this decision was neither waived nor reduced. Accordingly, this decision was mailed to parties for comments, and will be placed on the Commission's agenda for the required comment period.

12. Assignment of Proceeding

Karen Douglas is the assigned Commissioner, and Lena Afary is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Applicant is a vessel common carrier holding VCC-52. Applicant is authorized to transport passengers and their baggage in scheduled service between Los Angeles Harbor in San Pedro, Long Beach Harbor, and Dana Point, on the one hand, and points on Catalina Island, on the other hand.
2. Applicant provides passenger service between points along the shoreline of Los Angeles and Long Beach Harbors.
3. Applicant provides nonscheduled service to Catalina Island from Los Angeles and Long Beach Harbors, and between points on the Island.
4. On June 23, 2022, the Commission issued Resolution TL-19139 authorizing each vessel common carrier (VCC) to adopt a temporary ZORF tariff revision to reflect increases in the cost of fuel commonly referred to as the Temporary Fuel Cost Surcharge.
5. Resolution TL-19139 provided that: "For VCCs ... that have been granted a Zone of Rate Freedom (ZORF), the upper limit shall be 20% above the fares and rates on tariffs currently filed with the Commission."

6. Resolution TL-19139 was to expire on June 23, 2023, but was extended by the Commission pending final adjudication of Application 23-02-017.

7. The present Temporary Fuel Surcharge authorized by the amended resolution, TL-19148 and was to expire by June 23, 2025. This resolution was renewed at the May 15, 2025 Commission meeting as a temporary fix necessitating yearly renewal.

8. Applicant seeks authority to increase its base fares by roughly 16.67%.

9. Applicant seeks authority to retain its existing ZORF of plus or minus 20% of the base rate.

10. Applicant's existing ZORF was approved by the Commission in D.06-12-022.

11. Applicant cites in its application many of the factors that contribute to increased costs, both current and anticipated. One expense is related to increases in the cost of Ultra-Low Sulfur fuel.

12. Applicant is also faced with new regulations from CARB to use renewable diesel, which is more expensive than the currently used Ultra-Low Sulfur fuel.

13. Applicant anticipates these new regulations, the increase in fuel costs for low diesel fuel, new regulations for Commercial Harbor Craft, increase in the costs of liability insurance and labor costs, and an overall increase in costs necessitate a raise in the base rate and continuation of the existing ZORF

14. Based on cost increases in operations, maintenance, and labor, Applicant has a need to increase its base fares as prescribed by Pub. Util. Code Section 454 and Rule 3.2.

15. Applicant has shown that retention of the ZORF approved by the Commission in D.06-12-022 is justified for the services they provide to and from Santa Catalina Island and for inter-island services around Santa Catalina Island.

16. A CEQA review is not required for this application.

17. The Commission favors competition in the provision of VCC passenger service and Applicant has pleaded facts sufficient to show they provide service in competition with other such carriers.

Conclusions of Law

1. The California Constitution, Article XII, Section 4 and Pub. Util. Code Section 701 provides the Commission with broad authority to establish rules relating to the transportation of passengers and property by transportation companies.

2. The Commission has jurisdiction over requests for rate adjustments per Pub. Util. Code Sections 454 and 491.

3. Pub. Util. Code Section 454.2 permits the Commission to establish a ZORF for any passenger stage transportation service which is operating in competition with other passenger transportation service providers.

4. On June 23, 2022, the Commission issued Resolution TL-19139 authorizing each VCC to adopt a temporary ZORF tariff revision to reflect dramatic increases in the cost of fuel.

5. The expiration of Commission Resolution TL-19148 disallowed continued implementation of a 20% Zone of Reasonableness after June 23, 2025. The May 15, 2025 resolution is a temporary fix at best and needs yearly renewal.

6. The Commission extended the ZORF concept to VCCs by D.98-12-016.

O R D E R

IT IS ORDERED that:

1. Catalina Channel Express, Inc. is granted the authority to initiate a general fare increase of 16.67% pursuant to Public Utilities Code Sections 454 and 491.

2. Catalina Channel Express, Inc. is granted the authority to continue the established 20% Zone of Rate Freedom above and below the base rate for service between Los Angeles Harbor at 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 as approved by the Commission in D.06-12-022.

3. Catalina Channel Express does not need to prepare an Environmental Impact Report, Negative Declaration, or a mitigated Negative Declaration at this time as the application aligns with the goals of the California Public Utilities Commission's Environmental and Social Justice Action Plan.

This order is effective today.

Dated _____, 2025, at Sacramento, California