



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

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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.

MOTION FOR INTERIM RATE ORDER

DOWNEY BRAND LLP
Thomas J. MacBride, Jr.
Christopher Marellich
455 Market Street, Street, Suite 1500
San Francisco, California 94105
Telephone: (415) 848-4842
Facsimile: (415) 848-4801
Email: tmacbride@downeybrand.com
cmarellich@downeybrand.com

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Attorneys for Avalon Freight Services LLC

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Pursuant to Section 454 of the Public Utilities Code and Rule 11.1(a) of the Commission’s Rules of Practice and Procedure (“Rules”), Avalon Freight Services LLC (“Applicant” or “AFS”) moves that the Commission, at its earliest convenience, issue an interim rate order pending the completion of this proceeding.

In the Application, Applicant requested that the interim rate order authorize Applicant to increase its base rate by 10% pending the completion of this proceeding.

Applicant now requests that the Commission achieve largely the same result, more precisely and simply, by authorizing Applicant to continue the employment of its fuel cost surcharge as described in Commission Resolution TL-19148 utilizing the new base rates authorized in D. 24-12-036 until the Commission issues a decision resolving this application.¹ The effect of such an order would be to simply maintain the *status quo* throughout the course of this proceeding.

As set forth below Applicant is unaware of any opposition to such an order. Moreover, in the absence of such an order, Applicant will suffer a dramatic mid-year reduction in operating revenues on June 30, 2026 with the expiration of its fuel cost surcharge pursuant to D. 24-12-036. Its Operating Ratio (“OR”)² would fall to between

¹ See, footnote 19, *infra*.

² As noted at page 23 of the Application:

99.2% and 104%, an operating loss. Conversely, if this motion is granted, Applicant would retain the fuel cost surcharge until the conclusion of this proceeding. In that event the rates charged during the proceeding would likely produce an OR for 2026 of 94.4%-98.9%, an indicator of operations that are technically, but barely, profitable.³

I. BACKGROUND

A. The 2022 Fuel Cost Surcharge ZORF and Its Successors

On June 23, 2022, the Commission issued Res. TL-19139 to respond to changing prices in the diesel fuel market. Res. TL-19139 awarded a 20% Zone of Rate Freedom (“ZORF”) to all vessel carriers including Applicant. Specifically, the ZORF authorized Applicant and the other carriers to “increase their fares and rates up to a maximum of 20% from their current⁴ fares and rates without specific Commission authorization.” For a period of one year, all carriers were permitted to implement an increase of up to 20% by (1) providing two days’ notice to the Commission and (2) following up with notices to shippers and passengers through postings on vessels and freight offices. On June 29, 2022, shortly after the Commission issued Res. TL-19139, Applicant employed that authority to raise its base rates set in 2016 (“2016 base rates”) by applying a 6% fuel cost surcharge to those 2016 base rates.

In mid-2023, the Commission issued Res. TL-19141 extending the ZORF established in Res. TL-19139 another year.

On May 30, 2024, the Commission extended the fuel cost surcharge ZORF again but only for those vessel carriers, including Applicant, “that ha[d]...pending Applications

A carrier’s “operating ratio” (“OR”) is equal to a carrier’s operating costs divided by its revenues derived from those costs. In other words, “expenses as a percent of revenue.” An operating ratio of less than 100 percent, therefore, equates to an operating profit while an operating ratio in excess of 100 percent shows a loss because it indicates that operating expenses exceeded operating revenues during the period measured.

³ The estimates are derived from figures in Exhibit E filed under seal.

⁴ Their rates as of June 23, 2022.

for fare and/or rate increases as of the effective date of this Resolution".⁵ For a carrier in that group, the fuel cost surcharge ZORF extended by Res. TL-19148 would expire on the earlier of (1) the date the carrier received a decision on its pending rate case and (2)) June 22, 2025.⁶

In late March of 2024, AFS increased its fuel cost surcharge by another 4% pursuant to Res. TL-119139 (as extended by Res. TI-19141). Accordingly, as 2024 came to a close, Applicant had applied fuel cost surcharges totaling 10% to its 2016 base rates.

Applicant implemented those increases (totaling 10%) pursuant to the statewide authority the Commission granted in Res. TL-19139/TL-19141; those orders had actually authorized surcharges of 20%, double the increase actually implemented by Applicant. For more context, Applicant notes that during the time period between (1) April of 2016 when applicant began service at the 2016 base rates and (2) the end of 2024, the CPI increased by 35.4%.⁷

B. Application No. 23-11-013 and Decision No. 24-12-036

On November 20. 2023, Applicant filed A. 23-11-013 by which it sought authority to (1) increase its base rates by 6% and (2) change those base rates pursuant to a ZORF of plus or minus 20%.

On December 19, 2024, the Commission, by D. 24-12-036, authorized Applicant to increase the 2016 base rates by 6%. (The 2016 base rates increased pursuant to D. 24-12-036 are hereinafter referred to as the "2024 base rates.")

The Commission, however, denied Applicant the authority to employ a ZORF on its scheduled service route between San Pedro and Avalon, Applicant's principal source

⁵ Res.TL-19148, Ordering Paragraph ("OP") No. 1 at page 8.

⁶ *Id* at OP Nos. 1-2.

⁷

[https://data.bls.gov/timeseries/CUUR0400SA0?amp%253bdata_tool=XGtable&output_view=da
ta&include_graphs=true](https://data.bls.gov/timeseries/CUUR0400SA0?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true)

of revenue. The Commission did permit Applicant to employ a ZORF on Applicant's smaller volumes of service to and from points outside of Avalon.⁸

C. Temporary Fuel Cost Surchage Authority in D. 24-12-136

Pursuant to Res. TL-19148, Applicants existing fuel cost surcharge ZORF, originally granted by Res. Tl-19139, was to expire upon the issuance of D. 24-12-036. D. 24-12-036, however directed that:

Avalon Freight Services is authorized to continue its Zone of Reasonableness fuel cost surcharge as described in Commission Resolution TL-19148 utilizing the new base rate as authorized in this decision until June 30, 2026.⁹

D. The Status of Applicant's Current Rates.

Three months after the Commission issued D. 24-12-036, Applicant increased its eight-year old 2016 base rates by 6%.¹⁰ The new 2024 base rates became subject to the existing, but temporary, fuel cost surcharge of 10%.¹¹

Accordingly, Applicants current rates are the product of:

- Two tariff filings during 2022-2024 which brought Applicant's fuel cost surcharge to 10% the figure applied to the 2016 base rates under authority of Res. Nos. Tl-19139, Tl-19141 and TL-19148;
- The 6% increase in 2016 base rates authorized in OP 1 of D.24-12-036 resulting in the 2024 base rates; and
- The application of the existing 10% temporary fuel cost surcharge to the 2024 base rates.

On June 30, 2026, two of the three components described above expire. Only the 6% increase in 2016 base rates, creating the 2024 base rates, will remain. Absent an order of the Commission before June 30, 2026, Applicants rates will simply be 6% more

⁸ D. 24-12-036, OPs 1,3 and 4 at page 32.

⁹ D. 24-12-036, OP 10 at page 33.

¹⁰ Pursuant to OP 1 of D.24-12-036.

¹¹ Pursuant to OP 10 of D.24-12-036

than the rates it was charging ten years ago (April of 2016) when it began scheduled freight service between the Mainland and Santa Catalina Island.

Any comparison to standard indexes of costs (such as the Consumer Price Index (“CPI”)) demonstrates the inadequacy of the 2024 base rates, alone, to support Applicant’s costs. Between April of 2016 and today the CPI has increased by 39.3%. As noted at page 9 of the Application, the 2016 base rates were set for Applicants predecessor, Catalina Freight Line in 2009. Between 2009 and today the CPI has increased by 56.6%.

Absent an interim order by the Commission, the rates Applicant will be saddled with on July 1, 2026 will be set at a level about 85%,¹² below an inflation adjusted rate reflecting growth in the CPI. Rates only 6% higher than those charged in April of 2016 would have been consistent with CPI growth had they been charged two years later in the Spring of 2018.¹³ Ten years later in 2026, however, they are woefully deficient. As noted at the outset, failure to retain the *status quo* during the pendency of this proceeding is likely to result in Applicant suffering operating losses beginning on July 1, 2026. The order sought herein would avoid that outcome.¹⁴

II. The Commission May Issue an Interim Rate Order At This Stage of the Proceeding

The Commission is vested with ample authority to prevent this outcome in a simple non-controversial matter. The interim order sought here, a temporary order extending an existing surcharge, is not “general ratemaking” as understood by our appellate courts.¹⁵ Moreover, when presented with the opportunity to do, the California Supreme Court has not limited the Commission’s authority to issue such an order, even in

¹² $6/39.3 = .1526$ $1 - .1526 = .8473 = 84.73\%$

¹³ <https://data.bls.gov/pdq/SurveyOutputServlet>

¹⁴ See discussion of projected operating ratios at pp. 1-2 *supra*.

¹⁵ *Southern California Edison Co. v. Public Utilities Com.* (1978) 20 Cal.3d 813, 829; *Securus Technologies, LLC v. Public Utilities Commission*, 88 Cal App. 5th 787, 801-802.

general rate proceeding when, in the Commission’s judgment, such an order is justified (including as means of avoiding difficulties with “cash flow”).¹⁶

Long ago, the Commission described its broad authority to set vessel rates. In *Catalina Channel Express, Inc* Decision No. 98-12-016, 83 CPUC2d 265 (Conclusion of Law No. 1), the Commission held that it:

“(t)aken together, California Constitution Article XII, Section 4 and PU Code §701 grant the Commission broad discretion to fashion rules relating to transportation rates in the State which are unorthodox by comparison to traditional cost-of-service regulation.”

No formal proceedings proceeded the original 2022-2024 fuel surcharge resolutions, Res. Nos. TL-19139, TL-19141 and TL-19148. Indeed, the instant formal motion and any response to it are far more grounded in the Rules of Practice and Procedure than the activity that proceeded the fuel cost surcharge resolution.

No legal or procedural bar exists to issuance of an order extending the fuel cost surcharge to maintain the *status quo* for the duration of this proceeding.

III. THE ORDER SOUGHT WILL SIMPLY MAINTAIN THE *STATUS QUO* THROUGH THE COURSE OF THIS PROCEEDING

The Application urged the Commission to expeditiously issue an interim order increasing Applicant’s 2024 base rates¹⁷ by 10%.¹⁸ Such an order would effectively restore the two components of Applicant’s current rates that would otherwise be rescinded after June 30, 2026.

Were the order issued prior to June 30, 2026, however, as Applicant requested, it could result in an overlap of revenue producing rate elements, e.g. increased base rates while the fuel cost surcharge remains in effect. Accordingly, Applicant recommends that the Commission consider simply (1) extending the existing fuel cost surcharge until the

¹⁶ *Toward Utility Rate Normalization v. Public Utilities Commission*, 44 Cal. 3d 870 (1988).

¹⁷ The rates set in D.24-12-036.

¹⁸ Application, pp. 1, 2 and 27-28,

completion of this proceeding and (2) leaving the 2024 base rates untouched until the completion of this proceeding.

IV. CONCLUSION

The Interim Order sought herein is necessary to preserve the *status quo* during the pendency of this proceeding. In the absence of such an order, Applicant will likely suffer operating losses in mid-2026 as its rates are reduced to a level only 6% above what Applicant was charging ten years ago.

WHEREFORE, Applicant respectfully requests that the Commission issue an order extending the fuel cost surcharge as described in Commission Resolution TL-19148 utilizing the new base rates authorized in D. 24-12-036¹⁹ until the Commission issues a decision resolving this application.²⁰ Alternatively, Applicant requests that the Commission order an interim increase of ten percent (10%) in Applicant's 2024 base rates.

Respectfully submitted January 22, 2026 at San Francisco, California.

DOWNEY BRAND LLP

By: /s/ Thomas J. MacBride, Jr.
THOMAS J. MACBRIDE, JR.
Attorneys for Avalon Freight Services LLC

¹⁹ D. 24-12-036, OP 10 at page 33

²⁰ The request herein employs the text from Ordering Paragraph 10 of D. 24-12-036 substituting "until the Commission issues a decision resolving this application" for "until June 30, 2026."

VERIFICATION

I, Gregory E. Bombard, am the President of Avalon Freight Services, LLC ("AFS"). I am duly authorized to make this verification on behalf of the Applicant.

I affirm and declare under penalty of perjury that, to the best of my knowledge, all of the statements and representations made in this MOTION FOR INTERIM RATE ORDER are true and correct to the best of my knowledge except as to matters that are herein stated on information and belief. As to those matters, I believe them to be true.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: January 22, 2026

San Pedro, California



Gregory E. Bombard, President