

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Administration Services Division

San Francisco, California

Date: December 3, 2020

Resolution No.: M-4840

R E S O L U T I O N**Resolution M-4840. Adopts level of Public Utilities Commission Transportation Reimbursement Account User Fees, effective December 3, 2020.****SUMMARY**

This resolution adopts Public Utilities Commission Transportation Reimbursement Account (PUCTRA), Fund 0461, user fees as follows:

<u>CLASS</u>	<u>FEE</u>
Passenger Vehicle Operators:	
Charter Party Carriers, including Transportation Network Companies and Passenger Stage Corporations	0.0000 (0%) of gross intrastate revenue and \$0 for each annual or quarterly payment
Vessel Operators:	
Common Carrier Vessel Operator	0.0033 (0.33%) of gross intrastate revenue plus minimum \$10 quarterly fee or \$25 annual fee
Railroad Corporations:	
Class I:	
Burlington Northern Santa Fe	\$3,391,022.20
Union Pacific	\$8,304,657.80
Class II and III (shortline)	0.0027 (0.27%) of gross intrastate revenue, minimum of \$500 each
Pipeline Corporations	0.00034 (0.034%) of gross intrastate revenue

BACKGROUND

The California Public Utilities Commission (CPUC or Commission) is authorized by the California Public Utilities Code to annually assess user fees for transportation carriers, railroad corporations, and pipeline corporations. Public Utilities Code Section 421 states:

- (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator, and every

other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

- (b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.
- (c) Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning and Development Account pursuant to Section 99315. The railroad fees shall be set annually at a level that generates not less than the amount sufficient to fund activities pursuant to Sections 765.5, 916.2, and 7712.
- (d) Expenditures of the detailed budget for the expenditure of railroad corporation fees submitted to the Legislature pursuant to Section 916.5 shall be limited to the following items:
 - (1) Expenditures for employees occupying, and actually performing service in, railroad-safety personnel positions that are directly involved in inspecting railroads and enforcing rail safety regulations. The commission shall expend the funds budgeted pursuant to this subdivision for the salaries, per diem, and travel expenses of employees specified in this paragraph, unless, by statute, the commission is specifically prohibited from expending all or part of those funds.
 - (2) Expenditures for employees occupying, and actually performing service in, clerical and support staff positions that are directly associated with railroad-safety inspections.
 - (3) Expenditures for legal personnel who actually pursue violations of rail safety regulations beyond the informal complaint level.
 - (4) Expenditures for the pro rata share of the commission's overhead costs while state personnel are actually occupying the positions and are performing the duties specified in paragraphs (1) to (3), inclusive.
- (e) The Department of Finance shall notify the Joint Legislative Budget Committee, pursuant to Section 28.00 of the annual Budget Act, prior to authorizing any change in the Budget Act appropriation for railroad corporation fees that is larger than one hundred thousand dollars (\$100,000), or 10 percent of the amount budgeted, whichever is less.

- (f) On or before January 1, 1994, the commission shall hire a minimum of four additional operating practices inspectors, exclusive of supervisory personnel, who are, or shall become by July 1, 1994, federally certified, for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations.
- (g) The commission, in performing its duties, shall limit the expenditure of funds for rail safety purposes to those railroad corporation fees collected pursuant to subdivision (d). In no event shall the commission fund railroad safety activities utilizing funds from other commission accounts unrelated to railroad safety.

The Commission annually analyzes the amount of PUCTRA fees sufficient to support the Commission's regulatory activities for the carrier class from which the fee is collected, and to establish an appropriate reserve.¹ The Commission's PUCTRA appropriation for its regulatory activities is subject to approval at a later date by the California Department of Finance.²

When determining the amount of the PUCTRA fee needed, the Commission may choose between several calculation methodologies established in California Public Utilities Code Sections 422 and 422.1. The Commission may establish different methods for calculating fees for each class of carrier.³ For example, the Commission may use a percentage of gross intrastate revenues of the class for carriers other than railroads.⁴ The percentage-based PUCTRA fee is charged on gross intrastate revenue, defined as "all compensation for the transportation or storage of property or the transportation of persons when both the origin and destination of the transportation or the performance of the service is within this state, and shall not include compensation for the transportation of persons or property in interstate or foreign commerce or the transportation of vehicles by ferries."⁵

In the alternative, the Commission may assess fees on a basis other than revenue, including, but not limited to, on a per vehicle basis for passenger carriers.⁶ For railroad corporations, the fees shall be allocated within each class in accordance with subdivision (g).⁷ In addition to methodologies available under Section 422, the Commission may also establish a uniform annual fee to be paid by every charter-party carrier of passengers.⁸

¹ Cal. Pub. Util. Code § 422(a)(2).

² Cal. Pub. Util. Code § 422(a).

³ Cal. Pub. Util. Code § 422(b).

⁴ Cal. Pub. Util. Code § 422(c)(1).

⁵ Cal. Pub. Util. Code § 424(b).

⁶ Cal. Pub. Util. Code § 422(c)(2).

⁷ Cal. Pub. Util. Code § 422(c)(1).

⁸ Cal. Pub. Util. Code § 422.1.

DISCUSSION*Revenue and Expenditure Analysis*

The Governor's Budget structures PUCTRA's authorized expenditures by Program and Element, as shown below in Table 1. Subtasks, the most granular level of detail by utility class (passenger vehicle operators, common carrier vessel operators, pipeline corporations), are not displayed in the Governor's Budget but tracked internally by the CPUC.

Table 1: Governor's budget structure, PUCTRA

Program	Subprogram	Subtask (Utility Class) Tracked Internally
Regulation of Utilities (6690)	Transportation Licensing and Enforcement (6690046)	Passenger Vehicle Operators Common Carrier Vessel Operators Pipeline Corporations
	Freight Safety (6690055)	Railroad Corporations

In addition to the CPUC's budgeted expenditures from PUCTRA to support the Commission's regulatory activities, the fund supports statewide fund assessments.

Table 2 shows PUCTRA's current level of expenditures and 2020-21 estimated changes, distributed by Utility Class per Table 1. Estimated 2020-21 changes are subject to adjustment in the Governor's Budget and legislative budget processes.

Table 2. Expenditures of PUCTRA

Utility Class	Current Level 2019-20 ⁹ (a)	Fund Assessment ¹⁰ (b)	Estimated 2020-21 Change ¹¹ (c)	Total Estimated Expenditures 2020-21 (a+b+c)
Passenger Vehicle Operators	\$13,086,000	\$522,000	\$141,000	\$13,749,000
Vessel Operators	326,000	13,000	-	339,000
Pipeline Corporations	105,000	1,000	-	106,000
Railroad Corporations	11,715,000	695,000		12,410,000
Total	\$25,232,000	\$1,231,000	\$141,000	\$26,604,000

⁹ From the 2020-21 Proposed Governor's Budget.

¹⁰ From the 2020-21 Proposed Governor's Budget; allocated by workload data by utility class.

¹¹ FY2020-21 begins July 1, 2020, the 2020 fees fund these expenditures for half of calendar year 2020 through June 30, 2021.

Table 3. PUCTRA User Fees and Expenditures Projected for 2020-21 (No Fee Change)

Utility Class	Current User Fee Revenue 2019 (includes penalties) (a) ¹²	Current Non-User Fee Revenue 2019 ¹³ (b)	Total Estimated Expenditures 2020-21 (c)	Revenues Less Expenditures (a+b)-c
Passenger Vehicle Operators	\$13,529,000	\$14,000	\$13,749,000	\$(206,000)
Vessel Operators	135,000		339,000	(204,000)
Pipeline	89,000	-	106,000	(17,000)
Freight Rail	10,398,000	-	12,410,000	(2,012,000)
Total	\$24,151,000	\$14,000	\$26,604,000	\$(2,439,000)

Fund Reserve Analysis

CPUC's fund reserve policy for PUCTRA requires a fund reserve of 25 to 50 percent of expenditures. Table 4 shows the expected fund reserve for FY 2019-20 and FY 2020-21, using current revenue rates. At the FY 2020-21 expected level of expenditures, the fund reserve policy requires at least \$6,651,000. The PUCTRA fund reserve is expected to exceed this requirement. The PUCTRA fund reserve increased following 1) the addition to the fund of fees from Transportation Network Companies (TNCs) following Decision 13-09-045, which required TNCs to make reports and pay PUCTRA fees,¹⁴ and 2) back-payments and late penalties submitted by carriers in prior years.

To manage the fund reserve, the CPUC sets PUCTRA fees to 0.0000% for each class where the fund reserve attributable to that class is sufficient to cover the expenditures for the regulatory activities for that class, while maintaining an appropriate reserve of at least 25% of expenditures.

¹² Revenue in Columns a and b represent actual revenue collected from Quarter 3 and 4 of 18/19 and Quarter 1 and 2 of 19/20. Penalties that are included are those not remitted to the general fund, such as late penalties.

¹³ Includes registration, renewal, and other miscellaneous fees.

¹⁴ D.13-09-045, p. 33.

Table 4. PUCTRA Fund reserve summary, unadjusted revenue rates

Line	Item	2019-20	2020-21
A	Beginning-of-Year Fund Reserve	\$57,362,000	\$55,050,000
B	Estimated User Fee Revenues (if no rate change)	24,151,000	24,151,000
C	Estimated Expenditures	(26,463,000)	(26,604,000)
D	Net Fund Increase/(Decrease) (B - C)	(2,312,000)	(2,453,000)
E	Estimated Ending Fund Reserve (A - D)	\$55,050,000	\$52,597,000
F	Necessary minimum reserve (25% of C for FY 2020-21)		\$6,651,000
G	Less: Beginning-of-Year Reserve (FY 2020-21)		\$55,050,000
H	Additional revenue required to maintain 25% reserve		\$(48,399,000)

Passenger Vehicle Operators

Based on the analysis of projected PUCTRA revenues to program expenditures and the PUCTRA fund reserve attributable to Passenger Vehicle Operators, the Commission concludes that the “appropriate reserve” is sufficient to support the Commission’s regulatory activities for this class pursuant to Public Utilities Code Section 421(b). The fee for Passenger Vehicle Operators shall be reduced to 0.0000 (0%) of gross intrastate revenue and \$0 per each annual or quarterly payment.

After the effective date of this resolution, quarterly or annual fees for passenger vehicle operations for calendar year 2020 are \$0 (\$0 fee for the fourth quarter or annual fees due January 15, 2020 per California Public Utilities Code Section 423). Quarterly fees due for passenger vehicle operators for first, second, and third quarter in 2020 (prior to the effective date of this resolution) are to be calculated according to Resolution M-4838 (\$10 quarterly).

Carriers are still required to report quarterly or annual gross intrastate revenues, pursuant to Public Utilities Code Sections 423. The fee will be evaluated annually and modified as needed.

Vessel Operators

The revenues for vessel operators closely match the expenditures. The fee for Vessel Operators shall remain 0.0033 (0.33%) of gross intrastate revenue plus a minimum \$10 quarterly fee or \$25 annual fee.

Freight Rail

Unlike the other utility classes of PUCTRA, freight rail user fees are set by amount for Class I railroad corporations, and by rate with a minimum fee for Class II and III railroad corporations. The total fee level of \$12,183,000 set for the railroad corporations reflects a \$1,472,000 increase

from the \$10,711,000 level set for 2019. This total fee level was set prior to the release of the 2020-21 Governor's Budget.

Pipeline Corporations

The revenues for pipeline corporations match closely the expenditures. The fee for Pipeline Corporations shall remain at 0.00034 (0.034%) of gross intrastate revenue.

Prime Carriers Payment of PUCTRA fees for Subcarriers

Prime carriers are responsible for the reporting and payment of the fees on the gross intrastate earnings of subcarriers. Prime carriers are those passenger vehicle and vessel operators who engage the services of subcarriers. Such services of subcarriers by these prime carriers shall be evidenced by a written document. Fee statements submitted by a prime carrier shall indicate the name and gross intrastate earnings of each subcarrier in sufficient detail to enable the CPUC to cross-reference earnings and determine appropriate fee amounts among the respective carriers. Similarly, a fee statement submitted by a subcarrier shall indicate its gross intrastate earnings associated with each prime carrier. The Commission establishes this payment method for purpose of providing a more economical, simple, and efficient method of collecting and accounting for fees required to be charged and deposited in PUCTRA.

Penalties for Late Payment

The penalty imposed in Public Utilities Code Section 405 for default of the payment of the fee provided for in Public Utilities Code Section 421 shall remain fixed at 25% of the amount of the fee.

Table 5: User Fee Comparison 2019 to 2020

Utility Class	2019 User Fees	2020 User Fees	Base	Difference	% Change	\$ Change
Passenger Carriers	0.00	0.00	x Revenue	None	None	-
Vessel	0.0033	0.0033	x Revenue	None	None	-
Freight-Class I	\$10,283,000	\$11,696,000	Flat fee	\$1,413,000	13.7%	\$1,413,000
Freight-Class II & III	0.0027 or \$500 minimum	0.0027 or \$500 minimum	x Revenue	None	None	-
Pipeline	0.00034	0.00034	x Revenue	None	None	-
Total						\$1,413,000

COMMENTS ON DRAFT RESOLUTION

In accordance with Public Utilities Code Section 311(g), the Commission published this draft resolution on its website and sent copies to all affected regulated entities on October 30, 2020.

No comments were received.

THEREFORE, IT IS ORDERED THAT:

1. The current Public Utilities Commission Transportation Reimbursement Account user fees provided for in Public Utilities Code Section 421 shall be revised as follows:

<u>CLASS</u>	<u>FEE</u>
Passenger Vehicle Operators:	
Charter Party Carriers, including Transportation Network Companies, and Passenger Stage Corporations	0.0000 (0%) of gross intrastate revenue and \$0 for each quarterly and annual payment
Vessel Operators:	
Common Carrier Vessel Operator	0.0033 (0.33%) of gross intrastate revenue plus minimum \$10 quarterly fee or \$25 annual fee
Railroad Corporations:	
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Class II and III (shortline)	0.0027 (0.27%) of gross intrastate revenue, minimum of \$500 each
Pipeline Corporations	0.00034 (0.034%) of gross intrastate revenue

2. Carriers retain the obligation to report quarterly or annual gross intrastate revenues, pursuant to Public Utilities Code Sections 423.
3. Prime carriers retain the obligation to report and pay the fees on the gross intrastate earnings of subcarriers.
4. The penalty imposed in Public Utilities Code Section 405 for late payment of the fee provided for in Public Utilities Code Section 421 shall remain fixed at 25% of the amount of the fee.
5. Today's adopted fee structure will be evaluated annually and modified as needed based on fund condition status.
6. The effective date of this order is today.

I certify that the foregoing resolution was adopted by the California Public Utilities Commission at its regular meeting of December 3, 2020 and the following Commissioners approved favorably thereon:

Rachel Peterson
Acting Executive Director

APPENDIX A

**0461 Public Utilities Commission Transportation Reimbursement Account
Fund Condition Statement**

	FY 2018-19	FY 2019-20
BEGINNING BALANCE	\$41,223,000	\$57,362,000
Prior Year Adjustments	9,680,000	-
Adjusted Beginning Balance	\$50,903,000	\$57,362,000
REVENUES, TRANSFERS, AND OTHER ADJUSTMENTS		
Revenues: ¹		
Quarterly Public Utilities Commission Fees	24,151,000	12,000,000
Public Utilities Commission-Penalties on Quarterly Fees	1,000	2,000
Other Regulatory Licenses and Permits	1,031,000	850,000
Income From Surplus Money Investments	1,051,000	600,000
Total Revenues, Transfers, and Other Adjustments	\$26,234,000	\$13,452,000
Total Resources	\$77,137,000	\$70,814,000
EXPENDITURES AND EXPENDITURE ADJUSTMENTS		
Expenditures:		
Public Utilities Commission State Operations	19,034,000	25,232,000
Statewide General Admin Expense (Pro Rata)	599,000	842,000
Supplemental Pension Payments	140,000	390,000
Financial Information System for CA	2,000	(2,000)
Total Expenditures and Expenditure Adjustments	\$19,775,000	\$26,462,000
FUND BALANCE	\$57,362,000	\$44,352,000

¹ Fiscal Year 2018-19 prior year revenue will not match what is displayed in 2020-21 Enacted Budget. A prior year adjustment will be made in the 2021-22 Governor's Budget to reflect actual FY 2018-19 revenue.