

FEDERAL MARITIME COMMISSION

SPECIAL REPORTING REQUIREMENTS FOR THE TRANSPACIFIC STABILIZATION AGREEMENT AND THE WESTBOUND TRANSPACIFIC STABILIZATION AGREEMENT

ORDER AMENDING SPECIAL REPORTING REQUIREMENTS

On September 3, 2010, the Federal Maritime Commission (Commission) entered an Order requiring the Transpacific Stabilization Agreement (TSA) and the Westbound Transpacific Stabilization Agreement (WTSA) to file verbatim transcripts of certain meetings. While reducing the number of committees for which TSA and WTSA must provide transcripts, this Order extends the reporting requirements through April 30, 2012.

After having reviewed the transcripts submitted by the agreements and the current state of the market, the Commission has concluded¹ that transcripts for certain agreement meetings through April 30, 2012 will provide important information as carriers enter the traditional September-October peak season, potentially reduce Transpacific capacity in the traditional slack season, and then begin annual service contract negotiations for the next year. This extension for a targeted set of meetings through the remainder of the current annual service contract period will provide the Commission with information relating to potential equipment availability issues, capacity changes, and any conduct that is likely, by a reduction in

¹ Commissioner Rebecca F. Dye dissenting, see page 4.

competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost.

Accordingly, the Commission has determined to require the transcription of certain TSA and WTSA meetings pursuant to 46 C.F.R. § 535, Subpart G and its underlying statutory authority, 46 U.S.C. § 40104. The Commission hereby **AMENDS** the September 3, 2010, Order, as follows:

1. The members of the TSA and WTSA shall continue to file transcripts of meetings with the Commission, as provided in the September 3, 2010 Order, for all meetings described below that are conducted from the date this Order is served through April 30, 2012.
2. The members of the Transpacific Stabilization Agreement, Agreement No. 205-011223 shall file, in electronic format (text searchable) in the same manner as minutes and monitoring reports are currently filed with the Commission, transcripts of the following meetings,² whether conducted by telephone, electronic or personal presence:
 - Chief Executive Officer Committee Meetings;
 - Revenue Policy Committee Meetings;
 - Chief Executive Officer Executive Committee Meetings;
 - Revenue Policy Executive Committee Meetings;
 - Indian Subcontinent Committee Meetings; and
 - Any other meeting where capacity information might be used, shared, or exchanged. *Provided*, that TSA need not provide transcripts for meetings conducted by Commodity Subcommittees or Local Working Committees (with the exception of the Indian Subcontinent Committee), so long as the meetings conducted address subject matters strictly limited to the respective commodity or local market for which the committee or subcommittee has been created. Commodity Subcommittees or Local Working Committees remain obligated to provide minutes of their meetings pursuant to 46 C.F.R. 535, Subpart G.

² The term “meeting” when used in this Order shall have the same definition as it does in 46 C.F.R. § 535.704.

3. The members of the Westbound Transpacific Stabilization Agreement, Agreement No. 205-011325 shall file, in electronic format (text searchable) in the same manner as minutes and monitoring reports are currently filed with the Commission, transcripts of the following meetings, whether conducted by telephone, electronic or personal presence:

- Chief Executive Officer Committee Meetings;
- Revenue Policy Committee Meetings;
- Any other meeting at which voluntary service contract guidelines, general rates increases, or surcharges are discussed or agreed upon or where capacity information might be used, shared, or exchanged. *Provided*, that WTSA need not provide transcripts for meetings conducted by Commodity Subcommittees or Local Working Committees, so long as the meetings conducted address subject matters strictly limited to the respective commodity or local market for which the committee or subcommittee has been created. Commodity Subcommittees or Local Working Committees remain obligated to provide minutes of their meetings pursuant to 46 C.F.R. 535, Subpart G.

The members of TSA and WTSA need not produce minutes for meetings where transcripts will be produced and filed with the Commission. The members of TSA or WTSA may request that Commission staff members attend any meeting in lieu of TSA or WTSA preparing and filing a transcript for that meeting. If the Director of the Commission's Bureau of Trade Analysis, in consultation with the Commission's General Counsel, determines that Commission staff members will attend a meeting, TSA or WTSA may produce minutes instead of transcripts for those meetings or portions of meetings where Commission staff members are in attendance. This Order incorporates all other portions of the September 3, 2010 Order. All other requirements, regulations, and rules are unaffected by this Order.

By the Commission.

Karen V. Gregory
Secretary

Commissioner Rebecca F. DYE, dissenting:

I do not believe that the Transpacific Stabilization Agreement and the Westbound Transpacific Stabilization Agreement transcript requirements, established by the Commission on September 3, 2010, should be extended at this time. The ocean carrier capacity shortages and related concerns which led to Fact Finding 26 and formed the justification for the September 3, 2010, Commission Order do not exist at this time.

If future market conditions in international ocean transportation raise Commission concerns involving the TSA and the WTSA agreements, I would support reinstating the requirement for verbatim transcripts of certain TSA and WTSA meetings.

However, I do not believe the Commission has justified extending last year's verbatim transcript requirement under our limited authority for alternative periodic reporting requirements under 46 CFR 535 Subpart G. If the Commission supports extension of the verbatim transcript requirement for unrelated reasons, the Commission should begin a notice and comment proceeding on the matter.