

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Docket No. MR-1026
Public Service Commission, on)
its own motion, seeking to)
address the implementation of) ORDER ESTABLISHING
fuel surcharges by motor) IMPLEMENTATION STANDARD
carriers providing intrastate)
passenger transportation)
services.) Entered: March 29, 2022

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Nebraska Public Service Commission ("Commission"), on its own motion, seeks to address the implementation of fuel surcharges by motor carriers providing intrastate passenger transportation services. Recently, members of the industry have inquired how to implement their approved fuel surcharges that may become applicable due to the rising cost of fuel.

The Commission has jurisdiction over common carriers pursuant to Neb. Rev. Stat. Chapter 75 Articles 1 and 3. Pursuant to Neb. Rev. Stat. § 75-118 the Commission shall fix all necessary rates, charges, and regulations governing the transportation of passengers by any common carrier in Nebraska intrastate commerce. A fuel surcharge collected as part of a carrier's rates and charges for providing intrastate passenger transportation falls squarely within the Commission's jurisdiction over carrier rates. So to, is the establishment of guidelines used to determine when such a fuel surcharge may be implemented.

In recent weeks, fuel prices have escalated at an increasingly alarming rate. According to the weekly "Retail Gasoline and Diesel Prices" survey conducted by the U.S. Energy Information Administration ("EIA")¹ for the Midwest Region² the average price of gasoline³ has increased by approximately \$0.75 per gallon, or

¹ The U.S. Energy Information Administrative ("EIA") is the statistical agency of the U.S. Department of Energy that collects, analyzes, and disseminates independent and impartial energy information.

² The U.S. states and the District of Columbia are divided into five districts. The Midwest district, known as Petroleum Administration for Defense District 2 ("PADD 2"), includes Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, and Wisconsin.

³ Gasoline is available in regular grade, midgrade, and premium grade. The reference to "gasoline" is the average cost of all grades combined.

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an increase of 22.5%, since the beginning of February.⁴ Furthermore, diesel fuel price as also seen an increase by approximately \$1.15 per gallon, or an increase of 30.2%, during that same period.⁵ The cost of fuel within Nebraska has also increased, albeit to a lesser degree than the regional averages. According to the Nebraska Department of Environment and Energy ("NDEE") the cost of regular grade gasoline has increased by approximately \$0.63 per gallon,⁶ the cost of midgrade gasoline has increased by approximately \$0.62 per gallon,⁷ and the cost of premium grade gasoline has increased by approximately \$0.63 per gallon⁸ since the beginning of February.⁹ Furthermore, the average diesel fuel price in Nebraska has increased by approximately \$0.95 per gallon since the beginning of February.¹⁰

Fuel costs are expected to remain near the current levels for the foreseeable future with increases still possible. Even at the current levels, fuel costs have the potential to impact the costs Nebraskans incur utilizing carriers providing passenger transportation services. The Commission is sensitive to the financial strain that increased fuel costs have on a carrier's operating costs. However, the Commission must also be cognizant of the effects a carrier's action have on the public.

The transportation department recently conducted a review of the rates and charges on file with the Commission for motor carriers providing intrastate passenger transportation service. The review showed that several carriers have an add-on surcharge that is applied to the cost a passenger incurs for transportation services dependent on the current cost of fuel. The review further uncovered that no standard has been established for carriers to utilize when determining when to implement such fuel surcharges. Presenting the possibility that fuel surcharges may be applied inconsistently across the industry.

⁴ See U.S. Energy Information Administration, *Weekly Retail Gasoline and Diesel Prices*, at https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r20_w.htm (last accessed: March 22, 2022).

⁵ *Id.*

⁶ An increase of approximately 19.6%.

⁷ An increase of approximately 18.7%.

⁸ An increase of approximately 17.1%.

⁹ See Nebraska Department of Environment and Energy, *Weekly Average Retail Motor Fuel Prices by Fuel Class Nebraska and Seven Cities*, Nebraska Motor Fuel Prices 2021-2022 (Price per Gallon), at <https://neo.ne.gov/programs/stats/inf/112.htm#ne>.

¹⁰ *Id.*

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The Commission believes the most equitable method for a carrier to use to determine when to implement their fuel surcharge is the price the carrier pays for fuel at the terminal. The Commission does not find it agreeable for a carrier to use a state or geographical average cost of fuel to recover costs from a customer. Using the actual cost of fuel a carrier faces as the standard to implement a fuel surcharge ensures only carriers directly affected by higher fuel costs may recover those costs through a fuel surcharge. For carriers with multiple vehicles within a fleet the actual costs for fuel paid at the terminal may vary. Rates for carriers are established on a company wide basis and are not vehicle specific. Implementation of a fuel surcharge is no different. Therefore, the Commission is of the opinion that when one vehicle within a carrier's fleet purchases fuel at the terminal at a price that would trigger the company's fuel surcharge the fuel surcharge charge is applied company wide. A fuel surcharge would remain in effect until no vehicle within a company's fleet pays a cost at the terminal that would trigger the company's fuel surcharge. As such, carriers should file documentation informing the Commission when its fuel surcharge has been implemented based on the standard laid out herein, as well as when its fuel surcharge is no longer in effect.

Based on the above, the Commission finds that carriers should use the price of fuel that is paid at the terminal when determining when to implement its fuel surcharge as described herein, effective immediately.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the implementation standard described herein be, and is hereby, adopted.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 29th day of March, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Crystal Brader
Mary Kadden
Tim Schram

David W. Johnson

Chair

ATTEST:

Thomas W. Golden
Executive Director