

AGENDA ITEM 6 G  
Consent Calendar Item

**MEMORANDUM**

**DATE:** June 5, 2008  
**TO:** El Dorado County Transit Authority  
**FROM:** Matt Mauk, Transit Services Assistant  
**SUBJECT:** Charter Final Rule and Charter Rate for Fiscal Year 08/09

**REQUESTED ACTION:**

**BY MOTION,** 1) Adopt Resolution 08-09 recognizing Federal Register; Final Rule 49 CFR, 604 as policy criteria for the evaluation, acceptance, processing, provision and reporting of all charter services provided by the El Dorado County Transit Authority  
2) Approve Charter Rate of \$132.00 per Hour, Effective July 1, 2008 through December 31, 2008

**BACKGROUND**

The El Dorado County Transit Authority (El Dorado Transit) currently provides charter services as allowed per State and Federal guidelines. In June 2000, El Dorado Transit adopted a policy to provide charter services exclusively to public service agencies and private non-profit human service organizations. El Dorado Transit annually establishes an hourly charter rate as per the guidelines set forth in the *Transportation Development Act (TDA), Statutes and California Codes of Regulations, January 2005*. The charter rate adopted for Fiscal Year 2007/2008 was \$115.00 per service hour.

Following an extensive effort over the last two years by the Federal Transit Administration (FTA) and members of both the public and private transportation sectors, the agency issued its final rule on the governance of transit charters. The *Charter Service; Final Rule 49 CFR, Part 604* was published January 14, 2008 and amends regulations that govern the provision of charter service by public transit agencies receiving Federal funds. This final rule clarifies the existing regulations, sets forth a new definition of charter service and allows for registration of private charter providers through a national database, replacing the old “willing and able” process. The new rule includes a new provision that allows private charter operators to request a “cease and desist” order and establishes detailed complaint, hearing and appeal procedures.

**DISCUSSION**

The final rule defines charter service as transportation provided at the request of a third party for exclusive use of a transit vehicle for a negotiated price. A third party pays a

negotiated price for the group and determines the origin and destination of the trips, as well as the scheduling. Charter service is not part of the transit system's regularly scheduled service and is only offered for a limited time. The rule goes on to specify a charter as transportation provided for special events or functions that occur on an irregular basis or for a limited time, if the fare charged is higher than the usual or customary fixed route fare; or a third party pays for any part of the cost. The rule does permit a transit agency to serve the needs of human service agencies or specifically target special needs of populations who are elderly, disabled or low income.

The final rule includes new exemptions for the following:

- Transit systems transporting transit employees for the purpose of conducting oversight functions such as inspection, evaluation or review
- Private charter operators receiving federal funds
- Public transit agencies receiving funds under FTA Sections 5310, 5311, 5316 and 5317, so long as the charter service supports "program purposes"
- Planning and operations related to emergency response and preparedness
- Recipients in non-urbanized areas transporting employees for training

Public transit agencies may provide charter service under certain criteria. Exemptions allowed under the final rule include the following:

- Charters involving transportation of government officials for official business. This exemption is targeted at "government field trips such as visiting a new stadium or wastewater processing facility. It could also mean transporting City Council officials to a site or business officials, accompanied by government officials, touring a city for economic development purposes." The agency cannot generate revenue from this type of service and must not exceed a total of eighty (80) service hours a year.
- Qualified Human Service Organizations (QHSO), defined as qualified groups serving the elderly, persons with disabilities and low income individuals, who receive funding from one of the sixty-five (65) Federal programs. A QHSO that does not receive Federal funding, can qualify for exempt charter services provided they register with the FTA and do so at least sixty days prior to requesting charter service.
- Leasing equipment to private charter operators (must exhaust all available vehicles first and the operator must be registered on the FTA's Charter Registration website)
- By agreement with all registered charter providers
- When no registered charter provider responds to a notice sent by a recipient. If a transit agency wishes to provide charter service, not qualifying under any of the previously mentioned exemptions, it must post a notice of interest via the FTA's Charter Registration website. If no registered private charter providers respond with an interest in providing the charter within the specified timeframes – seventy-two (72) hours for trips with thirty (30) days notice or fourteen (14) days for trips with more than thirty (30) days notice – the agency can provide the service. If a registered private operator expresses interest, a transit system cannot provide the service whether the private operator does so or not. This new FTA

Charter Registration website effectively takes the place of the old “willing and able” process.

Under the Final Rule, public transit agencies must report all charter services performed to the FTA. Reporting will be required on a quarterly basis beginning on July 30, 2008 and includes all services provided under the above named exceptions. Through the national database, the rule also allows for the establishment of dockets for government officials, petitions to the Administrator, advisory opinions/cease and desist orders, complaints for removal of operators and QHSO’s, complaints and hearings. The new rule establishes clear procedures and deadlines, for the industry and the FTA, with regard to complaint, hearing and appeal procedures.

The State of California, TDA regulations, Section 99250, include three (3) guidelines regarding charter services performed by a public transit agency:

1. “...the charter bus service shall not interfere with regularly scheduled service to the public or compete unfairly with private operators where the private operators are willing and able to provide charter bus service.”
2. “...charter bus service rates and minimums shall be established which are...at least equal to the average of the three lowest current rates charged by private charter bus carriers actually operating charters originating in the same service area of the public transportation system during the prior year.”
3. “All charter bus service rates shall be reviewed and adjusted not less than semiannually to reflect variations in actual and assumed costs, as well as private charter bus carrier rates.”

Figure 1 below details the current rates from four (4) private charter providers operating in the same service area as El Dorado Transit and the average hourly rate based on at least a five (5) hour charter originating in Placerville, including dead-head times where applicable.

**Figure 1**

<b>Company</b>	<b>Quote for Charter</b>	<b>Hourly Rate</b>	<b>Quote for ea. additional hr.</b>
Ryan's Express	\$836.93 (7 hour)	\$119.56	\$78.00
All West Coachlines	\$768.00 (5 hour)	\$153.60	\$73.00
Amador Stage Lines	\$1012.09 (7 hour)	\$144.58	\$59.97
Great American Stage	\$907.07 (5 hour w/deadhead)	\$129.58	\$91.31
<b>Average Cost of lowest (3)</b>	<b>\$837.33</b>	<b>\$131.24</b>	

Based on the formula provided by the TDA regulations, El Dorado Transit's rate for charter service should be set at no less than \$131.24 per service hour for at least the first six (6) months of Fiscal Year 2008/2009.

**EL DORADO COUNTY TRANSIT AUTHORITY  
RESOLUTION NO. 08-09**

RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE EL DORADO COUNTY TRANSIT AUTHORITY  
RECOGNIZING FEDERAL REGISTER; CHARTER SERVICE;  
FINAL RULE 49 CFR PART 604 AS POLICY CRITERIA FOR THE  
EVALUATION, ACCEPTANCE, PROCESSING, PROVISION AND  
REPORTING OF ALL CHARTER SERVICES

**WHEREAS**, the El Dorado County Transit Authority (EDCTA) is a public agency providing charter services as allowed per State and Federal guidelines, and

**WHEREAS**, the Federal Transit Administration (FTA) issued its final rule on the governance of transit charters. The *Charter Service; Final Rule 49 CFR, Part 604* published January 14, 2008, and

**WHEREAS**, under the *Final Rule*, public transit agencies must report all charter services performed to the FTA, and

**NOW, THEREFORE, BE IT RESOLVED**, the EDCTA recognizes the *Federal Register; Final Rule 49 CFR, Part 604* as policy criteria for the evaluation, acceptance, processing, provision and reporting of all charter services provided by the EDCTA.

**PASSED AND ADOPTED BY THE GOVERNING BOARD OF THE EL DORADO COUNTY TRANSIT AUTHORITY** at a regular meeting of said Board, held on the 5th day of June 2008 by the following vote of said Board:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
James R. (Jack) Sweeney, EDCTA Chair

\_\_\_\_\_  
Mindy Jackson, Transit Director

APPROVED AS TO FORM:

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Barbara McDonald, Secretary to the EDCTA Board