



October, 2008

## **BRIEFING STATEMENT**

### **ISSUE: Concessioner Gasoline and Fuel Sales**

**Background:** On June 5, 2008, NPS received correspondence requesting relief from fees imposed on small concessioners and Commercial Use Authorization (CUA) holders due to the recent surge in fuel costs. The letter requested that the NPS reduce franchise and Commercial Use Authorization fees to offset the impacts of the unprecedented increases in fuel costs. The WASO Concessions Program was asked to analyze the situation and develop a policy strategy for field use. In preparing a strategy/response to address this issue, parks with concession operations were surveyed to determine if they are receiving requests for rate increases due to increased fuel costs. Additionally, franchise fee data for concessioners grossing under \$500,000 or outfitters and guides was reviewed to determine what these operators were grossing and paying in franchise fees based on the current data in Commercial Services System (CSS). Finally, the current Rate Approval Program was reviewed to ascertain how the existing Rate Program can work to address this issue.

**Current Status:** The results of the park surveys conducted in late June indicate that most Concessioners had not formally requested price increases or franchise fee reductions to date specifically due to the fluctuating fuel charges. Of the few parks reporting their Concessioners had requested rate increases, “comparability” was the most used rate approval method. A limited number of CUA’s had utilized a fuel surcharge. Several alternatives were considered to address this issue, including allowing Concessioners to use temporary rate requests due to fuel cost issues.

The NPS determined that fluctuating fuel prices do not qualify as “extraordinary unanticipated changes” which P.L. 105-391 states must occur in order to consider a franchise fee adjustment. Based on the results of our analysis, the following guidance was sent to the field on August 14, 2008.

**Temporary Rate Increase** - Concessioners may request temporary rate increases to park superintendents due to the rising cost of fuel. Parks will evaluate the concessioners request and can address the situation by issuing a temporary rate increase, if it is evident there is action needed.

Temporary rate increases must be based on the following criteria:

- a. The temporary rate increase may not be higher than that imposed by the comparables. Concessioners must provide documented proof that comparables are instituting rate increases in the marketplace at the time of the request. If comparables are not increasing rates to address raising fuel costs, then the Concessioner may not be authorized to do so.
- b. The temporary rate increase may not be retroactively applied to existing reservations. If approved by the NPS, Concessioners may invoke the temporary rate increase for future bookings but the visitor must be informed of the temporary rate increase at the time of the reservation.
- c. The temporary rate increase must be eliminated when the approved comparables eliminate similar increases, including any increases on existing reservations.

**Additional Rate Increase Requests** - Concessioners have the right to request rate increases outside of established rate study time periods due to market conditions. The recent surge in fuel costs may provide justification to validate rate increases through limited comparability reviews. If Concessioner operating plans define the time period when rate requests are to be submitted or limit the numbers of rate requests that can be made, parks may need to amend or modify these operating plans to allow for more frequent rate requests.

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