



# Uncollected Fare as Unresolved Problem of Public Transport Enterprises Engaged in Transportation of Benefit Holders

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## ABSTRACT

The international practices show that there are active policies of encouraging the use of public transport by people of special, privileged categories. Differentiated tariffs are used, all transport modes are combined into a single system, an index of accessibility of passenger transportation services is introduced. The system of free and discounted travel is widely implemented in Russia.

But the problem of social support for privileged categories of citizens cannot be solved without ensuring payment of their travel with public transport. The burden of financing the provision of benefits cannot be assigned to carriers.

Only development and subsequent application of the method of calculating uncollected fare will solve the problem of paying for transportation of social benefit holders. In this case, public transport

enterprises will be able to conduct normal business activities and provide high-quality and safe passenger transportation services.

The objective of the article is to justify the need to develop a method for calculating uncollected fare taking into account established tariffs.

Nation-wide and regional legislation, as well as judicial practice regarding research problems, were studied at the example of some Russian regions. A critical analysis of the relevant regional regulations has been made. Information was collected on public transport enterprises that had ceased operations.

As a result of a graphical interpretation of information on tariffs established by the state and compensation to carriers, the collected data were synthesized, which made it possible to clearly demonstrate the absence of a relationship between compensation and passenger transportation tariffs.

**Keywords:** public transport, transportation of benefit holders, uncollected fare, single social travel ticket, discounted travel, Tver region, Khabarovsk region.

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**Background.** Until 2004, in Russia, citizens belonging to certain privileged categories (for example, veterans of the Great Patriotic War, citizens exposed to radiation as a result of the Chernobyl disaster, multi-child families, labour veterans, etc.) had the right to travel freely using public transport regardless of place of residence (Federal Law dated 12.01.1995 No. 5-FZ «On Veterans» as amended on 06.05.2003, Law of the Russian Federation dated 15.05.1991 No. 1244-1 «On Social Protection of Citizens Exposed to Radiation Due to the disaster at Chernobyl APS» as amended on October 23, 2003, Decree of the President of the Russian Federation dated May 5, 1992 No. 431 «On Measures for Social Support of Multi-Child Families» as amended on February 25, 2003), and the main tasks of state passenger road transport enterprises were ensuring the release of rolling stock on line, implementation of the passenger transportation plan, etc. The work of enterprises was evaluated by a system of technical and operational indicators characterizing quality and quantity of work performed [1].

Benefit holders were given the opportunity of an unlimited number of trips on urban and suburban municipal routes, and transport enterprises subsidized from the budget provided for transportation of passengers in accordance with plans and regulations.

Since 2005, Federal Law of the Russian Federation No. 122-FZ dated August 22, 2004, known as the law on monetization of benefits, entered into force. Law No. 122-FZ amended federal regulations governing social protection of the population; the powers of providing benefits between federal and regional authorities were differentiated; benefit holders were divided between so-called federal and regional registers; in-kind benefits were replaced by monetary compensation; so the system of providing benefits to citizens has been changed [2].

Due to changes in federal legislation, a difficult situation has developed. The transition to monetization of basic benefits, including free travel, caused acute social tension among the population [3].

In order to prevent a decrease in the volume of social support for benefit holders in terms of transport services, the state delegated the authority to create a mechanism for providing

these benefits to the level of constituent entities, and most of them opted for single social travel tickets (SSTT) [4; 5].

### **Established tariffs**

Payment for transportation by public transport is made only on the basis of the established tariffs.

Transport enterprises carry passengers along regular routes, which, in accordance with civil law, relate to transportation by public transport (Article 789 of the Civil Code of the Russian Federation, Article 19 of the Federal Law of the Russian Federation No. 259-FZ dated November 08, 2007, «Charter of road transport and urban land electric transport») [6; 7].

The purpose of enterprises is to profit from economic activities. In accordance with Articles 426, 784, 786, 789 of the Civil Code of the Russian Federation, in case of application of any citizen, a public transport company, if possible, is obliged to provide transportation services to a citizen, refusal to perform passenger transportation is unacceptable [6].

From part 5 of Article 790 of the Civil Code of the Russian Federation, it follows that if benefits for passenger travel are established by law or regulation, the expenses incurred by the transport organization must be reimbursed [6].

Thus, transport enterprises cannot refuse to transport benefit holders, while all costs associated with their transportation must be reimbursed to carriers.

From paragraph 16 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated June 22, 2006 No. 23, it follows that transport companies that have provided passenger transportation services free of charge, as well as at reduced prices in accordance with the law, can receive compensation in the form of uncollected fare [8].

In accordance with the judicial act of the Supreme Court of the Russian Federation in case No. 4-G02-8 of May 13, 2002, according to parts 1, 2 of Article 790 of the Civil Code of the Russian Federation, there are two options to establish the fare size on transport.

The cost of transportation can be agreed upon by the carrier and the service recipient. Or the tariff for transportation can be set in accordance with applicable law.

The choice of the option to establish the size of transportation fare is based on the type of transportation.

In case of transportation of passengers by public transport, the fare is paid at the established tariffs. Payment for all other transportation is made at tariffs agreed by the parties, if there are no rules providing for a different payment procedure [9].

Therefore, it is possible to calculate the fare size that was not received by the public transport enterprise when transporting passengers of privileged categories, taking into account the established tariffs.

#### **Bodies authorized to approve tariffs**

The fares paid by passengers using public transport are established by the authorized authority or by a carrier.

As indicated in paragraph «g» of Article 71 of the Constitution of the Russian Federation, the basics of pricing policy are responsibility of the Russian Federation [10].

In accordance with paragraph 2 of the Decree of the President of the Russian Federation dated February 28, 1995 No. 221, the Government of the Russian Federation establishes the procedure for state regulation of tariffs for industrial products, consumer goods and services [11].

By the Decree of the Government of the Russian Federation dated March 7, 1995 No. 239 until October 12, 2018, state regulation of tariffs was entrusted to executive bodies of the constituent entities of the Russian Federation [12; 13].

In accordance with Federal Law dated July 13, 2015 No. 220-FZ, the authorities of a constituent entity of the Russian Federation establish regulated tariffs for transportation along municipal routes, or, if it is established by the law of the constituent entity, regular transportation is allowed at unregulated tariffs established by the carrier [14].

For example, in Tver region in accordance with the decree of the administration of Tver region dated November 30, 2006 No. 292-pa, the decree of the Government of Tver region dated May 3, 2012 No. 221-pp, and since January 1, 2019 in accordance with the decree of the Government of Tver region dated December 14, 2018 No. 359-pp «On the procedure for establishing regulated tariffs for transportation of passengers and baggage by public transport», the state regulation of tariffs is carried out by the Main Directorate «Regional Energy Commission» of Tver Region (MD REC of Tver region) [15].

Orders of MD REC of Tver region set fares for passengers on public transport.

#### **Regional regulations miss methodology to consider uncollected fare**

Regulatory acts of regional authorities on provision of travel privilege and compensation to transport enterprises do not contain a methodology for calculating uncollected fare.

Having studied with critical analysis method the mechanisms for providing travel privileges at public transport stipulated in legislation of Tver region and Khabarovsk region and the actual relationships between passengers, carriers and authorities, it is possible to conclude that there is no method for calculating uncollected fare in accordance with the tariffs.

The Decree of the Administration of Tver region dated February 16, 2005 No. 32-pa introduced SSTT, which gives citizens of privileged categories the right to make an unlimited number of trips on the routes of public and suburban public transport without paying for travel and established the cost of SSTT for citizens [4].

By the Decree of the Government of Tver region dated March 1, 2017 No. 45-pp, the «full fare for a passenger using SSTT per month» was established (hereinafter the SSTT fare) [16].

According to the Decree No. 45-pp, the amount of the subsidy to the carrier for reporting month (P) is determined on the basis of the volume of the carrier's lost revenues associated with provision of travel privilege for SSTT users in the territory of Tver region.

In fact, the amount of the subsidy is determined by multiplying the SSTT fare (C) by the number of used (received by benefit holders) SSTT (N):

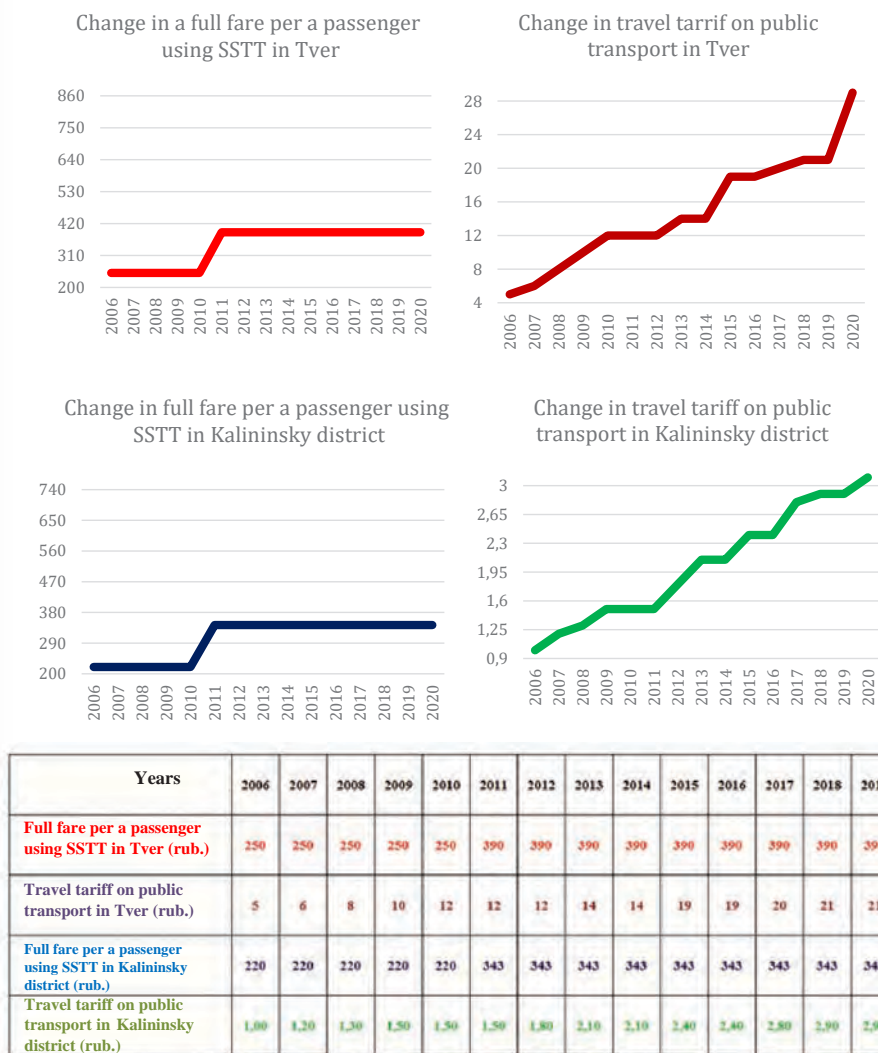
$$P = C \cdot N.$$

If in the municipality of Tver region, transportation of benefit holders is carried out by two or more carriers, distribution of subsidies between carriers is carried out according to the performed transport work (K), and in the period of summer season route the coefficient 1,2 is taken into account:

$$P = C \cdot N \cdot K \cdot (1,2).$$

At the same time, the Decrees No. 32-pa and No. 45-pp do not provide for any rules for documenting or calculating the real costs of transport enterprises for transportation of citizens using SSTT.





**Pic. 1. Comparison of changes in full SSTS fare and travel tariff on public transport in Tver and Kalininsky district [4; 16–19]. Compiled by the authors.**

The tariff approval procedures established by the Decrees No. 292-pa, No. 221-pp and No. 359-pp, did not comprise approval of «the total fare per a passenger using SSTS». There was no preliminary agreement with enterprises, clarification of actual expenses of enterprises, and publication of the methodology for determining «total fare per a passenger using SSTS». The amount of payment provided for by the Decree No. 32-pa and No. 45-pp does not take into account fare on public transport, those Decrees do not mention words «tariffs», «fare».

If we synthesize data on SSTS fare and fares for the entire time since introduction of SSTS, and compare how the so-called total SSTS fare, established by the Decrees No. 32-pas and No. 45-pp in the city of Tver and Kalininsky

district and the tariffs for transportation established by the regional energy commission, were changing, it is clear that the SSTS fare is a fixed amount that changed only once in 14 years, and tariffs for the same time period changed many times (Pic. 1).

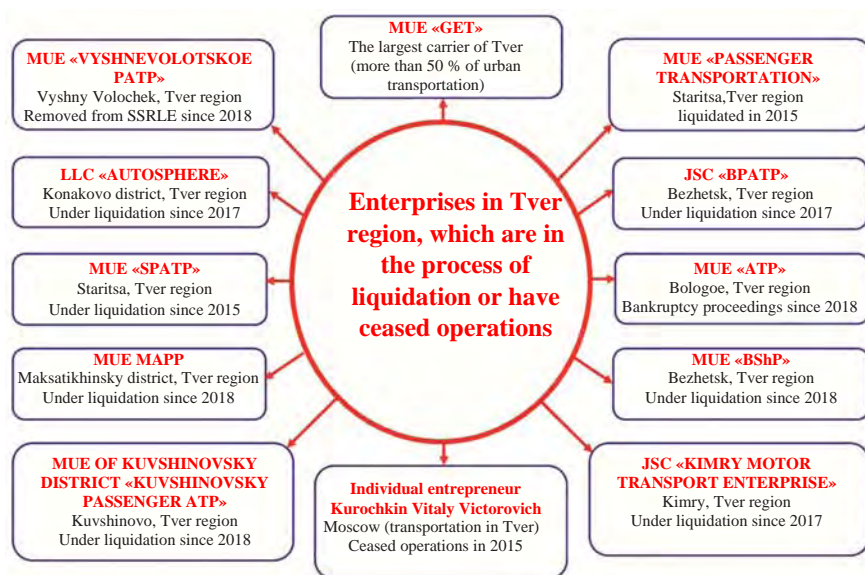
In the graphs of Pic. 1 along Y axis there is SSTS fare and the fare size. The X-axis reflects the period from 2006 to 2020.

The SSTS fare in Tver increased in 2011 by 56 % compared with the period from 2006 to 2011.

For 9 years, from 2011 to 2020, the SSTS fare remains unchanged.

The city tariff in Tver changed 10 times and since 2006 it has grown 5 times, having increased by 400 %.





**Pic. 2. Public transport enterprises of Tver region, which have ceased operations or are under liquidation [22–24]. Compiled by the authors.**

A similar situation is in Kalininsky district of Tver region, a suburb of Tver. The SSTT fare has not changed since 2011, and the tariffs for travel in urban and suburban transport established by the authorized body increase systematically.

A graphical interpretation of the synthesized data allows to clearly see that the SSTT fare is not related to the established tariffs.

In accordance with the letter No. 278 of the Territorial Department of Social Protection of the Population of Tver region dated March 6, 2015, the SSTT fare per month is not a fare for travel.

Neither Decree No. 32-pa, nor Decree No. 45-pp give any idea on the basis on which the SSTT fare was determined.

Decrees No. 32-pa and No. 45-pp indicate the maximum possible amount of compensation for a SSTT, called «full fare of a SSTT using passenger travel per month».

The phrase «full fare of a SSTT using passenger travel» is the conditional name of the estimated value used by the administration to calculate the amount to be allocated from the budget.

After conducting a critical analysis of the Decrees No. 32-pa and No. 45-pp, it was determined that these regulations did not contain a methodology for calculating the uncollected fare.

Enterprises transporting SSTT using passengers do not receive payment in accordance with the established tariffs.

### Problems of public transportation enterprises

Public transport enterprises cannot continue normal business activities without receiving payment for passenger transportation.

Until 2015, enterprises were able to recover uncollected fare through the courts [20].

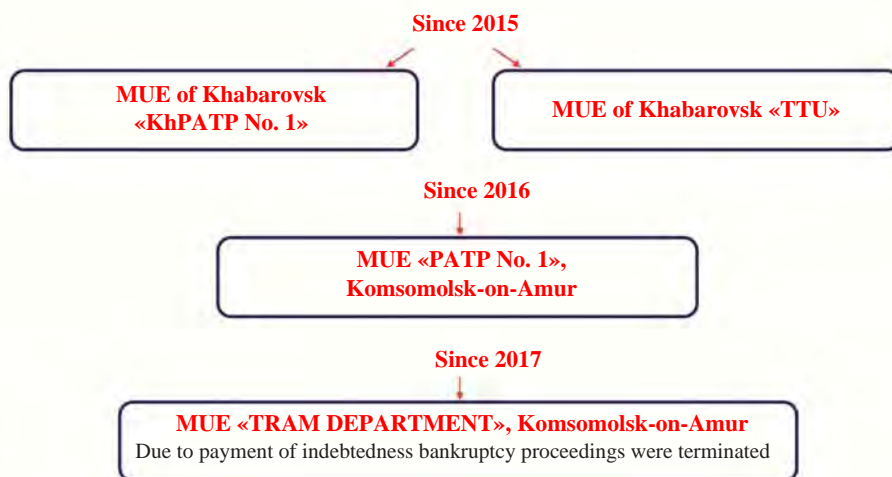
Since 2015, such practice has been suppressed by the Judicial Collegium for Economic Disputes of the Supreme Court of the Russian Federation [21].

As transport companies were denied a possibility to protect their civil rights, many carriers of Tver region have ceased operations or are in the process of liquidation. Some of them are shown in Pic. 2.

It can be assumed that the enterprises were not able to continue operations, since transportation of benefit holders was not paid, due to the fact that all the enterprises indicated in Pic. 2, except for MUE «ATP» in Bologoe, filed statements of claim with the court to recover uncollected fare. As follows from the statements of claim and statements on changes in the claims filed by carriers of Tver region in the process of considering the above civil cases, the total amount of uncollected fare amounted to more than half a billion rubles.

A similar situation has developed in many regions, for example, in Khabarovsk region.

In accordance with the Resolution of the Governor of Khabarovsk region dated May 17, 2005 No. 122 «On organization of travel privilege for certain categories of citizens in the



**Pic. 3. The largest passenger enterprises of Khabarovsk region, which are in the process of liquidation [25; 26]. Compiled by the authors.**

territory of Khabarovsk region», public transport enterprises carried out transportation of benefit holders free of charge.

It is not known how the compensation to transport enterprises for transportation of benefit holders provided for by the Resolution No. 122 is related to the tariffs established by the authorized body which is the Committee on Prices and Tariffs of the Government of Khabarovsk region.

Pic. 3 presents the largest passenger enterprises of Khabarovsk and Komsomolsk-on-Amur, which have been under the process of liquidation since 2016.

All these enterprises stated that they did not receive payment for transportation of benefit holders in accordance with state tariffs and applied to the court for protection of civil rights [27].

After the Judicial Collegium for Economic Disputes of the Supreme Court of the Russian Federation considered the case of MUE of Khabarovsk «Tram-trolleybus department» No. A73-1127/2014 (303-ES14-7904), the courts began to dismiss claims of the carriers of Khabarovsk region to recover uncollected fare [28].

As follows from the materials of civil cases, the total amount of claims of enterprises of Khabarovsk region that transported benefit holders is about a billion rubles [28].

Public transport enterprises cannot function without receiving payment for passenger, and particularly, benefit holders transportation.

In 2015, Decree No. 122 was repealed [29]. Starting November 1, 2015, in Khabarovsk region, travel privilege on urban and suburban

road, railway and water transport, including SSTT use, was replaced with a monthly cash payment for regional benefit holders [30].

However, three years later, Decree dated December 28, 2018 No. 495-pr «On the procedure and conditions for providing certain categories of citizens with travel privilege on public transport (except taxi) for urban and suburban traffic in Khabarovsk region» was adopted [31].

In accordance with Decree No. 495, free travel is provided across Khabarovsk region using a microprocessor plastic card (social transport card).

Citizens entitled to a monthly payment in accordance with regional legislation are provided based on their choice a monthly cash payment or travel on public transport using a social transport card for the amount of 1020 rubles per month.

Citizens entitled to a monthly payment in accordance with the legislation of the Russian Federation, are provided with traveling with public transport using a social transport card for the amount of 300 rubles per month.

It is not known how the amount of monthly cash payment and the number of trips required for federal and regional social benefit holders were calculated.

At the same time, it is hoped that with introduction of the social transport card, public transport companies will be paid for transportation of benefit holders in accordance with the established tariffs.

However, at the moment, the widespread use of electronic cards is impossible, since

electronic card readers (validators) are not installed in public transport in many municipalities of Russia.

For example, in the memo on provision of travel privilege using an electronic card published on January 21, 2020 on the official website of the Ministry of Social Protection of the Population of Tver region *минсоцзащиты. тверская область. рф* it is indicated that from March 01, 2020, travel privilege will be provided using an electronic card or contactless bank card.

The memo noted that this innovation applies exclusively to the city of Tver and Kalininsky district. In other municipalities of Tver region, electronic cards are not used to pay for travel in public transport. If a benefit holder is not a resident of Tver or Kalininsky district and does not have an electronic card, then travel privilege in Tver and Kalininsky district will continue to be provided to him on the basis of SSTT.

A methodology for calculating uncollected fare is required, taking into account established tariffs.

According to the preamble to the Federal Law of the Russian Federation No. 122-FZ, both regional and municipal authorities, changing the system of social protection of citizens, including replacing in-kind benefits with cash payments, must provide not less than a previously existing level of social protection.

The position of the country's leadership is unequivocal: abolition of free travel in the coming years is not expected [32].

Moreover, the Federal Law of the Russian Federation No. 122-FZ prescribed not to allow violations of rights and freedoms of other persons when citizens exercise their social rights and freedoms.

Public transport enterprises cannot be burdened with implementation of state social expenses related to provision of benefits to citizens.

Transportation of privileged categories of citizens can make up a significant part of all passenger transportation on regular urban and suburban routes.

Reception of payment for this part of transportation in accordance with the established tariffs is vital for public transport.

World experience shows that supporting public transport is a global trend.

So in the city of Bucaramanga, the administrative center of the department of

Santander in Colombia, there are proposals to introduce differentiated tariffs on public transport [33].

Researchers from the People's Republic of China believe that the policy of encouraging the use of public transport by people of so-called disadvantaged categories (disabled, elderly people, etc.) is an essential component of efforts to improve quality of life of the population [34].

European experts consider all types of passenger transport, including metro, city buses and railways, etc., as a single system that should be accessible to citizens, which can be attributed to benefit holders [35; 36].

In Australia, it is believed that introduction of an accessibility index contributes to improving availability of public transport, including for certain categories of people, for example, elderly, or people living outside urban areas where public transport coverage is insufficient [37].

**Conclusions.** As a result of the research, it can be concluded that a mechanism is needed that provides compensation to carriers for provision of free travel in accordance with civil law.

The article substantiates that in order to ensure payment for carriers for the services rendered, it is necessary to develop and apply a method for calculating uncollected fare taking into account established tariffs.

This method should make it possible to calculate the size of uncollected fare both in case of the use of electronic social transport cards and without their use, even considering the right of a benefit holder to an unlimited number of trips.

In order to avoid overstatement of uncollected fare, this method should allow the calculation to be carried out exclusively using data provided by public authorities or the carrier according to the reporting form established by the state.

Using the method of calculating uncollected fare, the right of public transport enterprises, which is the basis of their economic activity, should be implemented that is the right to receive payment for the services provided for transportation of passengers at tariffs established by the state or the carrier.

Only enterprises that have the ability to conduct normal business activities can provide high-quality and safe passenger transportation services.



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