05

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of WESTERN MOTOR TARIFF BUREAU, INC. To Increase Rates and Charges on Behalf of Motor Carriers of Property Authorized to Operate in the Dump Truck Classification on the Island of Oahu, and Participating in WMTB's Dump Truck Tariff No. 2-B. WMTB Rate Notice No. 4320-2-B.	DOCKET NO. 02-0360

PREHEARING ORDER NO. 19734

Filed Oct. 28, 2002

At 12:30 o'clock P .M.

Karen Higashi

Chief Clerk of the Commission

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ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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PREHEARING ORDER

I.

WESTERN MOTOR TARIFF BUREAU, INC. (WMTB) and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate), are the parties in this docket. On October 24, 2002, a scheduling conference was held at the commission's office.[1] The parties agreed on a procedural schedule, which reflects the fact that, pursuant to Hawaii Revised Statutes § 271-20(e), WMTB's proposed increase in rates will take effect upon operation of law if the commission does not render its decision on the merits by March 21, 2003, unless WMTB agrees to a waiver of this date.

[1]Representatives for WMTB and the Consumer Advocate attended.

The commission will accept the parties' procedural schedule, as reflected in this prehearing order.[2]

II.

Issue

The underlying issue in this proceeding is:

> Whether WMTB has met its burden of proof of establishing the lawfulness of the tariff changes sought in the subject rate notice, i.e, whether the proposed increases in rates and charges are just and reasonable, are not unjustly discriminatory, and do not give or cause any undue or unreasonable preference or advantage?

The foregoing issue shall be broadly construed to assure a complete record in this proceeding.

III.

Schedule of Proceedings

Unless modified otherwise by the commission, the parties shall adhere to the following procedural schedule and deadlines:

1. Consumer Advocate's submission of information requests (IRs) to WMTB: by October 30, 2002.
2. WMTB's responses to IRs: by November 15, 2002.
3. Consumer Advocate's submission of supplemental information requests (SIRs) to WMTB: by November 22, 2002.
4. WMTB's responses to SIRs: by November 26, 2002.
5. Consumer Advocate's direct testimonies and exhibits: by December 6, 2002.

*Pursuant to the parties' agreement, additional deadline dates will be set later, if necessary.

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[2]The generic terms of this prehearing order reflect the same language previously used by the parties in Dockets No. 00-0085 and No. 00-0425.

IV.

Order of Procedure

All testimony shall be in writing and filed according to the schedule of proceedings set forth herein. Cross-examination of any witness shall be limited to one attorney for a party. The parties shall avoid duplicative or repetitious cross-examination. Unless otherwise ordered by the Chairman, the examination of witnesses shall be limited to the manner and order set forth below:

WMTB's Witnesses

- Direct examination by WMTB.
- Cross-examination by Consumer Advocate.
- Redirect examination by WMTB.

Consumer Advocate's Witnesses

- Direct examination by Consumer Advocate.
- Cross-examination by WMTB.
- Redirect examination by Consumer Advocate.

Recross-examination of a witness shall be limited to the material covered in redirect examination unless otherwise permitted by the Chairman.

V.

Witnesses

Witnesses submitting written testimony and exhibits shall be made available for cross-examination at the hearing. Witnesses should have the work papers used in preparing the evidence they sponsor available at the hearing. Witnesses will not be permitted to read prefiled testimony at the hearing. Witnesses who will present both oral direct and rebuttal testimonies must present said testimonies at the same time.

In the oral presentation of the testimony, each witness may: (1) give a brief summary of the testimony and exhibits; and (2) summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for both direct and rebuttal testimony and exhibits.

The parties in this case should: (1) cooperate to accommodate the schedules of any mainland witnesses; and (2) inform the commission in advance of any scheduling difficulties of mainland witnesses. If any party has any objections to scheduling a witness in advance of other witnesses, the party should make a timely objection to the commission.

VI.

Testimony and Exhibits

All written testimony, including exhibits of witnesses, shall be submitted upon paper 8-1/2 x 11 inches in size, with lines numbered, and shall be served by the dates designated in the schedule of proceedings.

The testimonies and exhibits shall include appropriate footnotes or narrative setting forth the information depicted, explaining details, and the methods employed in preparing any statistical computations and estimates.

Each party may follow its own numbering system for written testimony and exhibits, provided the numbering system utilized is consistent and clearly understandable. The parties shall prepare a table listing each written testimony, and each exhibit by title, and identifying the witness sponsoring the testimony and the exhibit.

The exhibit number and the docket number of the proceeding shall be shown in the upper right-hand corner of each page. Each exhibit shall be submitted on a separate page.

VII.

Changes to Testimony and Exhibits

A party introducing new matters to its written testimony and exhibits, whether by way of revisions or supplements, shall attach a sworn affidavit explaining why these matters were not originally submitted. The commission may, if the explanation is unreasonable, reject the amended testimony or exhibits.

VIII.

Matters of Public Record and Stipulations

Documents identified as matters of public record may be offered as evidence to avoid unnecessary proof and to facilitate these proceedings. The following documents may be identified as matters of public record: (1) public financial reports, tariffs, previously submitted written testimonies and exhibits filed with the commission; (2) published decisions issued by state and federal agencies; (3) published scientific or economic statistical data, materials and textbooks, and technical or industrial journals; and (4) specified parts of the official record of previous proceedings of this commission.

The matters intended to be offered as evidence must be clearly identified by reference to the date and place of publication and the file or docket number. The identified

document must be available for inspection by the parties. Parties shall have the right to explain, qualify or conduct cross-examination with respect to the identified material. The commission will rule on whether specified and identified material can be admitted into evidence when a party proffers such material for admission as evidence.

From time to time, the parties may enter into stipulations that material, meeting the above criteria, or any portion of such material, may be introduced into evidence.

IX.

Requests for Information

A party to this proceeding may submit information requests to another party within the time schedule specified in this prehearing order. After the scheduled date for submitting information requests has passed, no additional requests for information shall be allowed except upon stipulation by the parties, or upon approval of the commission upon good cause shown.

In responding to an information request, a party shall not be required to provide data which is already on file with the commission or otherwise identified as a matter of public record. A party shall not be required to recalculate, trend, reclassify or otherwise rework data contained in its files, unless otherwise ordered by the commission.

A party may object to responding to an information request that it deems irrelevant, immaterial, unduly burdensome, onerous, or repetitious, or to call for the production of

information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to the protective order.

Parties seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the commission.

Responses to the information requests of the party may be introduced into evidence subject to objections as to relevancy or materiality of the proferred material or whether the material or any portion thereof is confidential or privileged.

The parties are encouraged to meet informally to work out problems with respect to understanding the scope or meaning of an information request or with respect to the availability of information. If a party is unable to provide the information within the time specified in the schedule of proceedings, it should so indicate to the inquiring party as soon as possible and the parties shall endeavor to agree upon a later date.

Responses to information requests requiring the reproduction of voluminous documents or materials may be made available for reasonable inspection and copying at a designated location. In the event such information is available on computer diskette, the party responding to the information request may make available the diskette to all parties and the commission.

The responses of each party shall adhere to a uniform system of numbering. For example, a response to an information request from the Consumer Advocate shall be designated "(Carrier's Name) Response to CA-IR-____."

X.

Copies of Testimonies, Exhibits, and Information Requests

Commission	Original + 8 copies
Consumer Advocate	3 copies
WMTB	3 copies

XI.

Communications

Rule 6-61-29 of the Rules of Practice and Procedure Before the Public Utilities Commission (RPP) concerning *ex parte* communications is applicable to any communications between a party or participant and the commission. However, a party or participant may communicate with commission counsel through their own counsel.

Communications between the parties may either be through counsel or through the parties' designated representatives.

XII.

General

These foregoing procedures will be applied in a manner consistent with the orderly conduct of this docket.

Pursuant to Section 6-61-37, RPP, this Prehearing Order controls the subsequent course of the hearing, unless modified at or prior to the hearing to prevent manifest injustice.

The commission reserves the right, due to the complexities of the case, to issue information requests to any party during the course of this proceeding, and to request work papers (or other information) during or after the evidentiary hearing, to be submitted as part of the record.

DONE at Honolulu, Hawaii this 28th day of October, 2002.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Wayne H. Kimura, Chairman

By _____
Janet E. Kawelo, Commissioner

By _____
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:

_____
Michael Azama
Commission Counsel

43202B.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Prehearing Order No. 19734 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

WESTERN MOTOR TARIFF BUREAU, INC.
P. O. Box 30268
Honolulu, HI 96820

Catherine Sakato

Catherine Sakato

DATED: October 28, 2002