

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

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

DECISION AND ORDER NO. 19918

Filed Dec. 20, 2002
At 8:00 o'clock A .M.

Karen Higashi
Chief Clerk of the Commission

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

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of))	
WESTERN MOTOR TARIFF BUREAU, INC.))	Docket No. 02-0360
To Increase Rates and Charges on)	
Behalf of Motor Carriers of)	Decision and Order No. 19918
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WMTB Rate Notice No. 4320-2-B.)	
_____))	

DECISION AND ORDER

I.

On September 20, 2002, WESTERN MOTOR TARIFF BUREAU, INC. (WMTB) filed Rate Notice No. 4320-2-B, on behalf of motor carriers of property authorized to operate in the dump truck classification on the island of Oahu, and that participate in WMTB's Dump Truck Tariff No. 2-B. Specifically, WMTB seeks a six per cent across-the-board increase in its rates and charges for its Oahu-based member carriers that participate in WMTB's Dump Truck Tariff No. 2-B. WMTB supports its request with a cost study, dated September 20, 2002.

WMTB makes its request in accordance with Hawaii Revised Statutes (HRS) §§ 271-20 and 271-21. Copies of WMTB's rate notice and cost study were served on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate). By Order No. 19690, filed on October 3, 2002, the commission: (1) suspended and placed under

investigation WMTB's proposed tariff changes; and (2) named the Consumer Advocate as a necessary party.

On October 24, 2002, a scheduling conference was held at the commission's office. Representatives for both parties attended. Thereafter, on October 28, 2002, the commission issued Prehearing Order No. 19734, which governs the proceedings in this docket.

On November 18, 2002, WMTB submitted its responses to the Consumer Advocate's information requests. On December 6, 2002, the Consumer Advocate filed its written testimonies. Based on its review, the Consumer Advocate "does not object to WMTB's proposed 6 per cent rate increase."

By letter dated December 12, 2002, WMTB waived the: (1) filing of additional evidence and testimony; and (2) evidentiary hearing. Instead, WMTB chose to submit its "case based on what has been presented thus far[,] " as follows:

The Bureau feels that we can add nothing to this case by further testimony. We would like further to waive the evidentiary hearings. We are willing to submit the case based on what has been presented thus far.

Further hearings would cause a lot of work for everyone involved and would not produce anything further for the record.

Consequently, by this decision and order, the commission will: (1) approve WMTB's waiver; and (2) address the merits of WMTB's rate notice.

II.

As set forth in Prehearing Order No. 19734, the underlying issue 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?

III.

A.

WMTB's cost study is based on actual 2001 revenues and expenses from various Oahu-based, sample member carriers that participate in Tariff No. 2-B.¹

WMTB states that the four member carriers selected for the sample generated the most dump truck revenues in the year 2001, "account[ing] for roughly 48% of all revenue generated by the Dump Truck industry on the island of Oahu." The study projects that the Oahu-based, dump truck member carriers will realize an operating ratio of 106.70 per cent in the test year with no rate increase, and an operating ratio of 101.33 per cent with the proposed six per cent rate increase.

B.

The burden of proof is on WMTB to prove the justness and reasonableness of its proposed increases in rates and charges. See HRS § 271-20; see also HRS § 91-10(5).

¹The sample carriers are: (1) B&C Trucking Co., Ltd.; (2) Bears Trucking, Inc.; (3) Kong Enterprises, Inc.; and (4) Teixeira Trucking, Inc.

Upon review, the commission finds that, among other things, WMTB's cost study fails to:

1. Indicate whether the sample carriers' results of operations were normalized to eliminate the effects of extraordinary events such as the aftermath of September 11, 2001.
2. Explain how B&C Trucking Co., Ltd.'s operating expenses were allocated: (A) between its regulated and non-regulated operations; and (B) amongst its regulated operations.
3. Explain why the dump truck revenues of B&C Trucking Co., Ltd. and Bears Trucking, Inc. were reduced by \$25,141 and \$11,170, respectively.
4. Explain why Bears Trucking, Inc.'s operating expenses include bonuses and incentive compensation expenses of \$2,240.
5. Explain how administrative overhead expenses of \$77,359 were allocated to Bears Trucking, Inc.
6. Explain whether the sample carriers' subcontract transportation expenses of \$661,492 were analyzed to eliminate the effects of: (A) subcontracting amongst the sample carriers; and (B) a sample carrier acting as a subcontractor to a non-sample carrier.

In addition, the sample carriers do not capture the majority of the at-issue revenues for 2001. For example, the carrier sample does not include Medeiros Trucking Service, Inc., which reported dump truck revenues of \$760,041 in 2001.

Based on the foregoing reasons, the commission finds that, under the circumstances, WMTB has not met its burden of establishing the lawfulness of the increases in rates and charges proposed by its rate notice. Accordingly, WMTB's Rate Notice No. 4320-2-B is denied.

IV.

THE COMMISSION ORDERS:

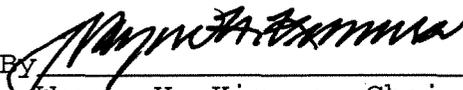
1. WMTB's waiver of the evidentiary hearing and the filing of additional evidence and testimony, filed on December 12, 2002, are approved.

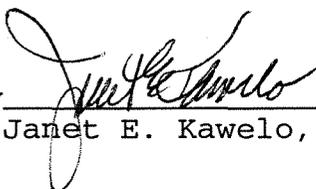
2. WMTB's Rate Notice No. 4320-2-B, filed on September 20, 2002, seeking a six per cent across-the-board increase in its rates and charges for its Oahu-based member carriers that participate in WMTB's Dump Truck Tariff No. 2-B, is denied.

3. This docket is closed.

DONE at Honolulu, Hawaii this 20th day of December, 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:

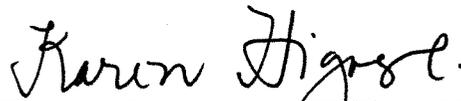

Michael Azama
Commission Counsel
02-0360.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19918 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



Karen Higashi

DATED: December 20, 2002