

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
WESTERN MOTOR TARIFF BUREAU, INC. )  
To Increase its Rates and Charges )  
on Behalf of Motor Carriers )  
Statewide Participating in WMTB )  
Household Goods Tariff No. 1-B. )  
WMTB Rate Notice No. 4321-1-B. )  
\_\_\_\_\_ )

DOCKET NO. 02-0361

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

2002 DEC 20 P 3:26

RECEIVED

DECISION AND ORDER NO. 19919

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

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OF THE STATE OF HAWAII

In the Matter of the Application of)	
WESTERN MOTOR TARIFF BUREAU, INC. )	Docket No. 02-0361
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Statewide Participating in WMTB )	
Household Goods Tariff No. 1-B. )	
WMTB Rate Notice No. 4321-1-B. )	
_____ )	

DECISION AND ORDER

I.

By Rate Notice No. 4321-1-B, filed on September 20, 2002, as amended on September 30, 2002, WESTERN MOTOR TARIFF BUREAU, INC. (WMTB) seeks to amend its Statewide Household Goods Tariff No. 1-B to reflect a five per cent across-the-board increase in its rates and charges.<sup>1</sup> WMTB supports its request with a cost study, dated September 20, 2002.

WMTB makes its request: (1) on behalf of all carriers statewide participating in Tariff No. 1-B; and (2) 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. 19691, 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.

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<sup>1</sup>WMTB's September 30<sup>th</sup> filing corrects an inadvertent error by replacing Supplement 10 with Supplement 11.

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. 19735, which governs the proceedings in this docket.

On November 18 and 26, 2002, WMTB submitted its partial responses to the Consumer Advocate's initial and supplemental information requests, respectively. On December 6, 2002, the Consumer Advocate filed its written testimonies. Based on its review, the Consumer Advocate "has no objection to WMTB's proposed 5 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. 19735, 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 nine sample member carriers that participate in Tariff No. 1-B.<sup>2</sup>

WMTB states that these nine sample carriers "accounted for 76.14% of statewide revenue generated by the Household Goods Transportation sector." The study projects that the household goods member carriers, statewide, will realize an operating ratio of 97.65 per cent in the test year with no rate increase, and an operating ratio of 93.20 per cent with the proposed five 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).

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<sup>2</sup>The sample carriers are: (1) American Movers, Inc.; (2) Big Isle Moving & Draying, Inc.; (3) M. Dyer & Sons, Inc.; (4) Island Movers, Inc. - Maui; (5) Island Movers, Inc. - Oahu; (6) Kauai Commercial Company, Inc.; (7) Kona Transportation Company, Inc.; (8) Pacific Transfer LLC; and (9) Tri Isle, 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 each sample carrier's operating expenses were allocated: (A) between the carrier's regulated and non-regulated operations; and (B) amongst the carrier's regulated operations.
3. Explain why the sample carriers' operating expenses include bonus and incentive compensation expenses of \$278,348.
4. Provide a breakdown of the sample carriers' other transportation expenses of \$1,500,600, bad debt expenses of \$247,004, and consulting services expenses of \$341,111.
5. Explain why Island Movers, Inc.'s workers' compensation experience modification factor is 14 per cent, when the other sample carriers report lower or negative experience modification factors.
6. Explain why Pacific Transfer LLC's allocated operating expenses result in a household goods operating ratio of 163.25 per cent, when its total company operating ratio is 92.85 per cent.
7. Explain why Kona Transportation Company, Inc.'s allocated operating expenses result in a household goods operating ratio of 117.29 per cent, when its total company operating ratio is 101.37 per cent.

In addition, WMTB failed to completely respond to the Consumer Advocate's initial and supplemental information requests, in violation of Prehearing Order No. 19735. Specifically, responses were not submitted by two of the sample carriers -- American Movers, Inc. and Kauai Commercial Company, Inc.

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. 4321-1-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.

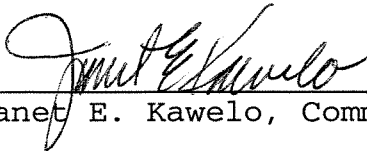
2. WMTB's Rate Notice No. 4321-1-B, filed on September 20, 2002, as amended on September 30, 2002, seeking a five per cent across-the-board increase in its rates and charges for its household goods member carriers that participate in WMTB's Statewide Household Goods Tariff No. 1-B, is denied.

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

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel


By   
Gregg J. Kinkley, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19919 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

  
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Karen Higashi

DATED: December 20, 2002