

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 Kauai, and)
Participating in WMTB's Dump)
Truck Tariff No. 2-B.)
WMTB Rate Notice No. 4323-2-B.)

DOCKET NO. 02-0363

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

2002 DEC 20 P 3:26

RECEIVED

DECISION AND ORDER NO. 19920

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. 02-0363
To Increase Rates and Charges on) Decision and Order No. 19920
Behalf of Motor Carriers of)
Property Authorized to Operate)
in the Dump Truck Classification)
on the Island of Kauai, and)
Participating in WMTB's Dump)
Truck Tariff No. 2-B.)
WMTB Rate Notice No. 4323-2-B.)

DECISION AND ORDER

I.

On September 20, 2002, WESTERN MOTOR TARIFF BUREAU, INC. (WMTB) filed Rate Notice No. 4323-2-B, on behalf of motor carriers of property authorized to operate in the dump truck classification on the island of Kauai, 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 Kauai-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. 19693, 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. 19737, 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. 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. 19737, 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 2000 revenues and expenses from two Kauai-based, sample member carriers that participate in Tariff No. 2-B. Specifically: (1) Fredstan Kaluahine's Towing & Service; and (2) Kauai Commercial Company, Inc.

WMTB states that the two member carriers selected for the sample represent the top three Kauai-based dump truck carriers, and "account[ed] for 43 percent of the at-issue dump truck industry revenues generated on the island of Kauai in 2000."¹ The study projects that the Kauai-based, dump truck carriers will realize an operating ratio of 107.85 per cent in the test year with no rate increase, and an operating ratio of 101.99 per cent with the proposed six per cent rate increase.

¹WMTB explains that Rego's Trucking, Limited, the second largest dump truck carrier, was not used as a sample carrier "due to its pending certificate transfer to another entity at the initiation of the study." Hence, "information from the carrier would not be forthcoming if the company was no longer in the dump truck hauling business."

B.

WMTB's cost study is based on the sample carriers' revenues and expenses for the year 2000. Thus, its study is outdated. In addition, its study does not appear to capture the majority of at-issue revenues. Instead, it utilizes the revenues and expenses of just two sample carriers, which accounted for approximately 43 per cent of the dump truck carrier revenues on Kauai for 2000.²

Upon review, the commission finds certain other deficiencies with the 2000 cost study. Specifically, the cost study fails to, among other things:

1. Explain how Kauai Commercial Company, Inc.'s operating expenses were allocated: (A) between its regulated and non-regulated operations; and (B) amongst its regulated operations.
2. Explain why Kauai Commercial Company, Inc.'s allocated operating expenses result in a dump truck operating ratio of 115.94 per cent, when its total company operating ratio is 83.14 per cent.
3. Explain Kauai Commercial Company, Inc.'s pension expenses of (\$278,927).
4. Itemize Kauai Commercial Company, Inc.'s administrative and general expenses of \$99,463.
5. Explain why Fredstan Kaluahine's Towing & Service's allocated operating expenses result in a dump truck operating ratio of 102.46 per cent, when its total company operating ratio is 87.99 per cent.
6. Explain why administrative salaries of \$40,243 increased Fredstan Kaluahine's Towing & Service's dump truck expenses.

²If a new cost study utilizes 2001 revenues and expenses, the sample carriers' results of operations should be normalized to eliminate the effects of extraordinary events such as the aftermath of September 11, 2001.

7. Explain whether the sample carriers' revenues were analyzed to eliminate the effects of a sample carrier acting as a subcontractor to a non-sample carrier.

In addition, WMTB failed to completely respond to the Consumer Advocate's initial and supplemental information requests, in violation of Prehearing Order No. 19737. Specifically, Kauai Commercial Company, Inc. did not respond to the information requests.

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. 4323-2-B is denied.

IV.

THE COMMISSION ORDERS:

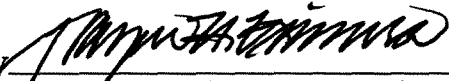
1. WMTB's waiver of the evidentiary hearing and the filing of additional evidence and testimony, filed on December 12, 2002, are approved.

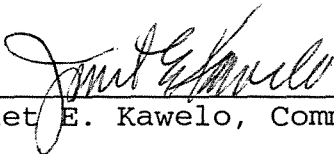
2. WMTB's Rate Notice No. 4323-2-B, filed on September 20, 2002, seeking a six per cent across-the-board increase in its rates and charges for its Kauai-based member carriers that participate in WMTB's Dump Truck Tariff No. 2-B, is denied.


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

02-0363.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19920 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