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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of	)	Docket No. 02-0426
	)	
WESTERN MOTOR TARIFF BUREAU, INC.	)	Prehearing Order No. 20029
	)	
To Increase Rates and Charges on Behalf of Motor Carriers Participating in WMTB's Break-bulk and Delivery Tariff No. 11-A, Island of Oahu. WMTB Rate Notice No. 4330-11-A.	)	

STIPULATED PREHEARING ORDER NO. 20029 .

and

CERTIFICATE OF SERVICE

Filed Feb. 18, 2003

At 12:00 o'clock P .M.

Karen Higashi

Chief Clerk of the Commission

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2003 FEB 18 P 4: 15
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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STIPULATED PREHEARING ORDER NO. _____

Comes now Western Motor Tariff Bureau, Inc. (hereinafter, "WMTB") and the Consumer Advocate by and through their undersigned representative or counsel, and hereby stipulate and agree that the following provisions shall constitute the Prehearing Order herein, which will hereafter govern this proceeding:

I.

STATEMENT OF ISSUES

The issues for this proceeding are set forth in **Attachment "A"** to this Stipulated Prehearing Order.

II.

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 or participant. The parties shall avoid duplicate or repetitious cross-

examination. Unless otherwise ordered by the Chairman, the examination of witnesses shall be limited to the manner and order set forth in **Attachment "B"** to this Stipulated Prehearing Order.

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

III.

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 hearings. 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 give a brief summary of the testimony and exhibits and shall 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 cooperate to accommodate the schedules of any mainland witnesses and should inform the Commission in advance of any scheduling difficulties of mainland witnesses. If any party has any objection to scheduling a witness in advance of other witnesses, the party should make a timely objection to the Commission.

IV.

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 on 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.

V.

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.

VI.

ADMISSIONS OF FACT AND MATTERS OF PUBLIC RECORD

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 matter 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, quantify or conduct cross-examination with respect to the identified material. The Commission will rule on whether specified and identified material can be admitted into the evidence when a party offers 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.

VII.

REQUESTS FOR INFORMATION

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated 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 by 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 this Commission or otherwise identified as a matter of the 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 projection (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 it 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 proffered material or whether the material or any portion thereof is proprietary 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 which would require 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-_____".

VIII.

COPIES OF TESTIMONY, EXHIBIT, AND INFORMATION REQUESTS

1. Testimonies and Exhibits:

Commission	Original + 8 copies
Consumer Advocate	3 copies
Other Parties	3 copies

2. Information Requests and Responses;

Commission	Original + 8 copies
Consumer Advocate	3 copies
Other Parties	3 copies

IX.

SCHEDULE OF PROCEEDINGS

The parties shall adhere to the schedule set forth in **Attachment "C"** to this Stipulated Prehearing Order.

X.

COMMUNICATONS

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.

XI.

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, the Prehearing Order controls the subsequent course of the hearing, unless modified at or prior to the hearing to prevent 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 proceding, and to request work papers (or other information) during or after the evidentiary hearing, to be submitted as part of the record.

DATED: Honolulu, Hawaii, Feb 12, 2003.

By Laureen KK Wong
LAUREEN K.K. WONG
Attorney for the Consumer Advocate
Department of Commerce and
Consumer Affairs

By Robert E. Lewis
ROBERT E. LEWIS
General Manager
WESTERN MOTOR TARIFF
BUREAU, INC.

APPROVED AND SO ORDERED this 18th day of February, 2003, at Honolulu, Hawaii.

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:

_____
Commission Counsel

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ATTACHMENT "A" - STATEMENT OF ISSUES

1. Whether WMTB has met its burden of proof of establishing the lawfulness of the tariff changes sought in its rate notice?

   a. Are the proposed increases in rates and charges just and reasonable?

   b. Are the proposed increases in rates and charges not unjustly discriminatory and do not give or cause any undue or unreasonable preference or advantage?

2. Has WMTB addressed the questions raised in Order No. 19933 regarding their cost study? These questions were:

   a. Indicate whether the sample carrier's results of operations were normalized to eliminate the effects of extraordinary events such as the aftermath of September 11, 2001;

   b. Explain how the operating expenses of Hawaii Transfer Company,

Ltd., and Island Movers, Inc. were allocated between the carriers' total operations and their non-regulated operations;

c. Analyze the expenses that are included in Hawaii Transfer Company, Ltd.'s ocean freight expenses of $442,232;

d. Explain whether the sample carriers' subcontract transportation expenses of $382,550 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;

e. Provide an account analysis of the sample carriers' insurance and safety expenses of $1,005,821; and

f. Explain why Hawaii Transfer Company, Ltd.'s workers' insurance and safety experience modification factor is 27 per cent.

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ATTACHMENT "B" - ORDER OF PROCEDURE

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.

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ATTACHMENT "C" - SCHEDULE OF PROCEEDINGS

WMTB Direct Testimony	January 24, 2003
Consumer Advocate's Submission of information requests (IRs) to WMTB	February 5, 2003
WMTB's responses to Consumer Advocate's IRs	February 21, 2003
Consumer Advocate's Supplemental IRs to WMTB	March 5, 2003
WMTB responses to Consumer Advocate's SIRs	March 19, 2003
Consumer Advocate's Direct Testimonies and Exhibits	April 2, 2003
WMTB IRs to Consumer Advocate	April 11, 2003
Consumer Advocate's Response to WMTB IRs	April 21, 2003
Rebuttal Testimony of WMTB (if any)	May 2, 2003
Evidentiary Hearing	May 16, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date served a copy of the foregoing **STIPULATED PREHEARING ORDER NO.** 20029, upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. 0. Box 541
Honolulu, Hawaii 96809

WESTERN MOTOR TARIFF BUREAU, INC.
P.O. Box 17
Honolulu, Hawaii 96810

Karen Higa

Dated: February 18, 2003