

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of the-----)
PUBLIC UTILITIES COMMISSION)
Instituting a Proceeding to)
Investigate the Reasonableness)
of Establishing Rate Flexibility)
for Motor Carriers of Passengers)
and Property.)
_____)

DOCKET NO. 03-0245

ORDER NO. 20464

RECEIVED
2003 SEP 25 P 3:40
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Sept. 24, 2003
At 9:00 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-----)
PUBLIC UTILITIES COMMISSION) Docket No. 03-0245
Instituting a Proceeding to) Order No. 20464
Investigate the Reasonableness)
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for Motor Carriers of Passengers))
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ORDER

I.

By Order No. 20409, filed on August 29, 2003, the commission opened an investigation "to examine the feasibility of establishing a zone of reasonableness for motor carriers of passengers and property, or some other mechanism to expedite the ratemaking and rate review procedures for regulated motor carriers." The commission named as parties to this proceeding the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"); Hawaii State Certified Common Carriers Association, Inc. ("HSCCCA"); Hawaii Transportation Association ("HTA"); and Western Motor Tariff Bureau, Inc. ("WMTB").

By letter dated September 15, 2003, WMTB makes certain general claims, alleging the violation of "anti-trust law[.]"¹ In addition, it appears that WMTB objects to HSCCCA's and HTA's

¹See Exhibit 1, page 2, attached.

participation as parties to the commission's proceeding. On September 16, 2003, the commission transmitted copies of WMTB's letter to HSCCCA, HTA, and the Consumer Advocate.²

WMTB's position, as set forth in its September 15th letter, is unclear. Accordingly, the commission will instruct WMTB to file a written statement explaining in detail: (1) its position on the anti-trust issue it raises; and (2) its reasons for objecting to HSCCCA's and HTA's participation as parties to this proceeding. WMTB's written statement shall include all supporting legal authorities, information, documents, and evidence. In turn, HSCCCA, HTA, and the Consumer Advocate will have the option of responding to WMTB's written statement.

II.

THE COMMISSION ORDERS:

1. Within 10 days from the date of this order, WMTB shall file with the commission its written statement, including all supporting legal authorities, information, documents, and evidence thereto, with a copy served upon HSCCCA and HTA, respectively, and two copies served upon the Consumer Advocate.

2. Within 10 days from the date of service of WMTB's written statement, HSCCCA, HTA, and the Consumer Advocate may file with the commission a written response thereto. If a respondent chooses not to respond, such party shall timely file a notice of no response. Each respondent shall serve a copy of its response or notice upon all other parties to this proceeding.

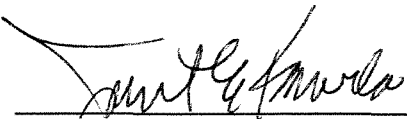
²See Exhibit 1, page 1, attached.

DONE at Honolulu, Hawaii this 24th day of September,
2003.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


~~for~~ Michael Azama
Commission Counsel

03-0245.s1

LINDA LINGLE
GOVERNOR



CARLITO P. CALIBOSO
CHAIRMAN

WAYNE H. KIMURA
COMMISSIONER

JANET E. KAWELO
COMMISSIONER

STATE OF HAWAII
PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
465 S. KING STREET, #103
HONOLULU, HAWAII 96813

September 16, 2003

Hawaii Transportation Association
2850 Paa, Suite 204
Honolulu, Hawaii 96819

Hawaii State Certified Common
Carriers Association, Inc.
P. O. Box 88692
Honolulu, Hawaii 96830-8692

Division of Consumer Advocacy
P. O. Box 541
Honolulu, Hawaii 96809

Dear HTA, HSCCA, and Division of Consumer Advocacy:

Re: Docket No. 03-0245, Public Utilities Investigation

Enclosed is a copy of a letter dated September 15, 2003, submitted to the commission by the Western Motor Tariff Bureau, Inc.

Sincerely,

A handwritten signature in black ink that reads "Paul M. Nakayama".

Paul M. Nakayama
Enforcement

PMN:MA:sl

Enclosure

c: Robert E. Lewis, WMTB
(w/o enclosure)

EXHIBIT 1

03-0245

3cs
Ad
Knl/ma
Silda
PN

WESTERN MOTOR TARIFF BUREAU, INC.
P.O. BOX 30268
HONOLULU, HI 96820
Phone: (808)836-5874 Fax: (808)834-1732

September 15, 2003

Chairman Carlito Caliboso
Public Utilities Commission
State of Hawaii
465 South King Street, 1st Floor
Honolulu, HI 96813

2003 SEP 15 P 1:20
PUBLIC UTILITIES
COMMISSION
FILED

Dear Mr. Chairman:

This is in response to your request. The WMTB has been made a party, by the Commission, to your docket regarding the possibility of establishing a Zone of Reasonableness for rate making purposes.

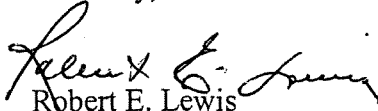
The Commission has also made others, including the HSCCCA and the HTA, party to the same docket. It is our belief that even naming HTA is a violation of the law. HTA does not make rates, publish rates, or set the level of rates. They do not have anti-trust immunity and therefore are barred by law from doing these things, or even to enter discussion regarding any of this.

Therefore, we believe that our participation in any hearing or meeting with HTA would be a violation of the anti-trust law, and we will not do so.

We have some questions on whether the immunity granted to HSCCCA is valid due to the way they operate.

If you have any comments to share or any further questions, please call me.

Sincerely,



Robert E. Lewis
Manager

Western Motor Tariff Bureau, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20464 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

HAWAII STATE CERTIFIED COMMON CARRIERS ASSOCIATION, INC.
P. O. Box 88692
Honolulu, HI 96830-8692

HAWAII TRANSPORTATION ASSOCIATION
2850 Paa
Suite 204
Honolulu, HI 96819

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



Karen Higashi

DATED: September 24, 2003