

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Complaint of)
JACK'S TOURS, INC.)
Complainant,)
v.)
KILAUEA MILITARY CAMP)
Respondent.)
_____)

DOCKET NO. 04-0141

ORDER NO. 21342

Filed Sept. 10, 2004
At 1 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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2004 SEP 13 A 8:53
DIV. OF CONSUMER AFFAIRS
DEPT. OF COMMERCE AND
INDUSTRY
STATE OF HAWAII

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

BEFORE THE PUBLIC UTILITIES COMMISSION
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In the Matter of the Complaint of)
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Respondent.)

Docket No. 04-0141
Order No. 21342

ORDER

I.

Background

On June 4, 2004, JACK'S TOURS, INC. ("Jack's Tours" or "Complainant") filed a formal complaint ("Complaint") with the commission against KILAUEA MILITARY CAMP ("KMC" or "Respondent") (together with Complainant, "Parties"), pursuant to Hawaii Administrative Rules §§ 6-61-67 and 6-68-13. Jack's Tours alleges that KMC is in violation of the state motor carrier law, Hawaii Revised Statutes ("HRS") chapter 271.

On July 7, 2004, the Hawaii Transportation Association ("HTA") filed a letter with the commission in which it stated its position in support of Complainant's request for a cease and desist order from the commission against Respondent.¹

¹By letter dated September 2, 2004, the commission submitted a copy of the HTA letter to Respondent's counsel in the docket.

On June 8, 2004, the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs advised the commission that it would not participate in the instant proceeding.

On July 12, 2004, the commission ordered Respondent to file an answer to Jack's Tours' Complaint within 20 days of July 12, 2004.²

On July 30, 2004, Respondent filed its answer to the Complaint.

No persons moved to intervene in this docket.

II.

Discussion

Upon review of the pleadings, the commission concludes that prior to scheduling an evidentiary hearing in this docket, it must determine whether it has subject matter jurisdiction to hear and decide upon the Complaint. Accordingly, the commission finds it reasonable and necessary to allow the parties an opportunity to file supplemental briefs within twenty (20) days of the date of this order, to solely address whether the commission has subject matter jurisdiction to hear and decide upon this complaint.

Unless otherwise ordered, further commission action will follow, subsequent to the filing of the supplemental briefs.

²Order No. 21116, filed on July 12, 2004.

III.

Orders

THE COMMISSION ORDERS:

1. The Parties shall file supplemental briefs on the jurisdictional issue within 20 days from the date of this order.
2. Unless otherwise ordered, further commission action to follow subsequent to the filing of the supplemental briefs.

DONE at Honolulu, Hawaii SEP 10 2004.

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:


Benedyne S. Stone
Commission Counsel

04-0141.rpr

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21342 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

JACK'S TOURS, INC.
737 Kanoelehua Avenue
Hilo, HI 96720

WRAY H. KONDO, ESQ.
EMI L. M. KAIMULOA, ESQ.
WATANABE ING KAWASHIMA & KOMEIJI LLP
First Hawaiian Center, 23rd Floor
999 Bishop Street
Honolulu, HI 96813

Attorneys for Complainant JACK'S TOURS, INC.

KILAUEA MILITARY CAMP
Hawaii Volcanoes National Park
Hawaii National Park, HI 96718

DAVID A. McCORMICK, ESQ.
U.S. ARMY LEGAL SERVICES AGENCY
901 N. Stuart Street, Room 713
Arlington, VA 22203-1837

Attorney for Respondent KILAUEA MILITARY CAMP



Karen Higashi

DATED: SEP 10 2004