

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
PARADISE CHRISTIAN TOURS, INC., dba)  
A'A TOURS )  
For a Common Carrier Certificate )  

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DOCKET NO. 04-0161

ORDER NO. 21409

DIV. OF CONSUMER ADVOCACY  
DEPT. OF LABOR AND  
CORPORATE AFFAIRS  
STATE OF HAWAII

2004 OCT 13 A 8:30

RECEIVED

Filed Oct. 11, 2004  
At 2 o'clock P.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

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PARADISE CHRISTIAN TOURS, INC., dba)  
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Docket No. 04-0161  
Order No. 21409

ORDER

I.

Motion to Intervene

PARADISE CHRISTIAN TOURS, INC., dba A'A TOURS ("Applicant"), is a contract carrier of passengers by motor vehicle over irregular routes on the island of Hawaii, excluding Waipio Valley, in the 8-to-25 passenger classification, limited to utilizing motor vehicles with a maximum manufacturer's seating capacity of 15 passengers. Applicant provided transportation services pursuant to a contract with Polynesian Adventure Tours, Inc. On July 6, 2004, Applicant filed an application seeking commission approval to change its existing authority as a contract carrier under Permit No. 5821-P to a certificate of public convenience and necessity to operate as a common carrier of passengers by motor vehicle over irregular routes on the island of Hawaii, excluding Waipio Valley, in the 1-to-7 and 8-to-25 passenger classifications.

On July 7, 2004, the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs, filed a statement of

position stating that it would not participate in the instant proceeding. On August 9, 2004, a timely motion to intervene in this proceeding ("Motion to Intervene") was filed by Jack's Tours, Inc. ("Movant").

## II.

### Discussion

Pursuant to Hawaii Administrative Rules § 6-61-55, "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." Additionally, intervention as a party in a proceeding before the commission is a matter resting within the commission's sound discretion. See In re Application of Hawaiian Electric Co., Ltd., 56 Haw. 2660 (1975).

In its Motion to Intervene, Movant alleges, among other things, the following: (1) that Applicant will be in direct competition with Movant; (2) that Applicant's proposed service is not and will not be required by the present or future public convenience and necessity; (3) that Applicant's proposed service is not consistent with the public interest and transportation policy of the State of Hawaii and will not foster sound economic conditions in transportation among carriers, as set forth in Hawaii Revised Statutes § 271-1; (4) that Applicant is not fit or able to properly perform the service proposed in its application; (5) that Applicant is operating illegally as a common carrier; (6) that Movant's participation can assist in the development of a

sound record; and (7) that Movant's participation will not broaden the issues or unduly delay the proceeding.

Based upon our review of the Motion to Intervene, we find that Movant's assertions do not warrant a grant of intervention by the commission. Movant has not convinced the commission that its participation as a party is necessary to a proper determination of the instant application, or that a grant of intervention to Movant would not unnecessarily delay the instant proceeding. Moreover, as pertaining to the allegation that Applicant is illegally operating as a common carrier, the commission has held previously that past violations, if any, do not necessarily prevent the commission from finding that an applicant for a certificate of public convenience and necessity is fit, willing, and able to conform to the motor carrier statutes, and the commission's rules and regulations. See In re Big Island Hauling, Inc. and Kona Cinder and Soil, Inc. v. Mark Jernigan, dba Soil Plus, Decision and Order No. 12922, Docket Nos. 7383 and 7388 (consolidated) (December 9, 1993).

Accordingly, we conclude that Movant's Motion to Intervene should be denied.

III.

Order

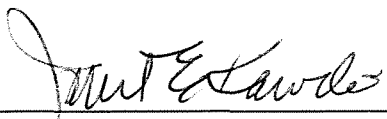
THE COMMISSION ORDERS that Movant's Motion to Intervene, filed on August 9, 2004, is denied.

DONE at Honolulu, Hawaii OCT 11 2004


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By (EXCUSED)  
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Benedyne S. Stone  
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21409 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

PARADISE CHRISTIAN TOURS, INC.  
dba A'A TOURS  
c/o RAYMOND YAMAUCHI  
P. O. Box 5126  
Kailua-Kona, HI 96745

  
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Karen Higashi

DATED: October 12, 2004