

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
BERING SEA ECCOTECH, INC.)
For a Temporary Common Carrier)
Authority.)
_____)

DOCKET NO. 04-0308

DECISION AND ORDER NO. 21431

Filed Oct. 29, 2004
At 9 o'clock A.M.

Karen Higashi.
Chief Clerk of the Commission

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KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi.

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DECISION AND ORDER

I.

Application for Temporary Common Carrier Authority

On October 22, 2004, BERING SEA ECCOTECH, INC. ("Applicant") filed an application requesting temporary authority to operate as a common carrier of property by motor vehicle over irregular routes on the island of Oahu in the specific commodities (hauling black oil) classification. The application is made pursuant to Hawaii Revised Statutes ("HRS") § 271-16.

Applicant served copies of the application on the Hawaii Transportation Association, which consists of carriers that may be affected by Applicant's proposed service, and on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"). On October 25, 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.

II.

Findings and Conclusions

For a grant of temporary operating authority pursuant to HRS § 271-16, an applicant must satisfy two conditions. First, an applicant must establish that there is "an immediate and urgent need" for the proposed service. Second, an applicant must also demonstrate "[an] absence of carrier service capable of meeting the need between points or in the territory where the temporary service will be instituted." See In re Robert's Tours & Transportation, Inc., Decision and Order No. 15274, Docket No. 96-0437 (December 23, 1996). In addition, pursuant to HRS § 271-16, the commission may, at its discretion, grant temporary authority for service by a common or contract carrier, without hearings or other proceedings.

Applicant represents that its proposed service is immediately and urgently needed to meet a requested contract start date of December 3, 2004 with Hawaiian Electric Company, Inc. ("HECO") and that it is the only carrier in the State of Hawaii that meets the equipment specifications to haul fuel oil. HECO's letter of October 19, 2004, included with the application, affirms Applicant's representations above, specifically, (1) HECO is in need of Applicant's proposed service in early December 2004, and (2) Applicant is one of two qualified carriers on the island of Oahu with the financial stability and required experience to transport low sulfur fuel oil, but that Applicant was selected as the lowest evaluated contract bidder of the two.

Upon review, we find that Applicant meets the criteria for temporary authority set forth in HRS § 271-16. First, Applicant's proposed service is immediately and urgently needed to meet a requested contract start date of December 3, 2004 with HECO, and, second, Applicant is the only carrier capable of providing the proposed service, as it was the lowest evaluated bidder on a HECO contract proposal. We, thus, conclude that Applicant's request for temporary operating authority should be granted without hearings or other proceedings in this docket.

Pursuant to HRS § 271-16, the commission may grant temporary authority to an applicant for no more than one hundred and twenty (120) days. We conclude, therefore, that since Applicant satisfied the requirements for a grant of temporary authority pursuant to HRS § 271-16, it should be granted temporary authority for a period of one hundred twenty (120) days.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted temporary authority to operate as a common carrier of property by motor vehicle over irregular routes on the island of Oahu in the specific commodities (hauling black oil) classification. The temporary authority shall be valid for no more than one hundred twenty (120) days from the date of this decision and order, in accordance with HRS § 271-16. However, the temporary authority may be terminated for good cause,

including, but not limited to, Applicant's failure to comply with the motor carrier laws or the commission's rules or orders.

2. Applicant shall comply with all of the commission's requirements for common carriers by motor vehicle including, but not limited to, filing a lawful tariff, paying a fee of \$20 for motor carrier gross revenues, and filing the appropriate insurance documents.

3. Applicant shall comply with the foregoing requirements within fifteen (15) days after service of this decision and order. Failure to comply within the time specified constitutes cause for this commission to void this decision and order.

4. Applicant shall not commence operations under this decision and order until it has received written confirmation from the commission that all requirements have been met.

DONE at Honolulu, Hawaii OCT 29 2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By Wayne H. Kimura
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

Benedyne S. Stone
Benedyne S. Stone
Commission Counsel

04-0308.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21431 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

AL KAAIHUE, PROJECT MANAGER
BERING SEA ECCOTECH, INC.
91-607 Malakole Road, Suite 202
Kapolei, HI 96707



Karen Higashi

DATED: OCT 29 2004