

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
PATTERSON CONSTRUCTION & )  
TRUCKING, INC. )  
For Expedited and Temporary )  
Authority to Utilize )  
Non-Certificated or Non-Permitted )  
Carriers of Property in the Dump )  
Truck Classification on the Island )  
of Molokai. )  
\_\_\_\_\_ )

DOCKET NO. 05-0143

REV. OF CONSUMER AGENCY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

2005 JUN 15 A 7:51

RECEIVED

DECISION AND ORDER NO. 21866

Filed June 14, 2005  
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.



a barge docked on the island of Molokai, which is scheduled to depart on Saturday, June 18, 2005.<sup>1</sup> In support of its expedited and temporary request, Patterson represents:

1. It is proposing to transport property (i.e., cinder) for compensation or hire onto a barge docked on the island of Molokai, and must complete its proposed transportation services no later than Saturday, June 18, 2005, the date the barge will be departing the docks ("Proposed Service").<sup>2</sup>
2. Presently, besides itself, there are only two (2) other certificated common carriers of property authorized to transport material by dump trucks on the island of Molokai: RAYMOND B. KALILIKANE SR., dba RAY'S RENTAL ("Ray's Rental") and MANABA ENTERPRISES, INC. ("Manaba"). These three (3) certificated carriers on the island of Molokai currently have a total of nine (9) dump trucks, and Patterson intends to utilize all nine (9) dump trucks for the Proposed Service from June 17-18, 2005.<sup>3</sup>

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<sup>1</sup>See Patterson's letter attached hereto as Exhibit "1", dated June 9, 2005 ("Patterson Letter").

<sup>2</sup>Per telephone conversation on June 13, 2005 between Patterson and commission staff; and see also, Patterson Letter.

<sup>3</sup>*Id.*

3. To timely and adequately complete the Proposed Service, Patterson needs to utilize approximately ten (10) additional dump trucks from carriers of property that are not presently certificated or permitted by the commission.<sup>4</sup>

As such, Patterson asserts that there is an immediate and urgent need for the Proposed Service, and that there are no other dump truck carriers on the island of Molokai capable of providing the Proposed Service.<sup>5</sup>

## II.

### Discussion

Hawaii Revised Statutes ("HRS") § 271-16 provides, in relevant part:

To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for service by a common carrier or a contract carrier by motor vehicle, as the case may be. The temporary authority, unless suspended or revoked for good cause, shall be valid for the time that the commission shall specify, but for no more than a period of one-hundred-twenty days for any one immediate and urgent need.

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Patterson, Ray's Rental and Manaba are all common carriers of property authorized to, among other things, transport property in the dump truck classification on the island of Molokai.<sup>6</sup> Besides these carriers, there are no other carriers (i.e., certificated or permitted) on the island of Molokai authorized to transport property in the dump truck classification.<sup>7</sup> Furthermore, both Ray's Rental and Manaba orally confirm that they do not object to Patterson's June 9, 2005 request.<sup>8</sup>

Based on the above and Patterson's representations, we find Patterson's June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday, June 17, 2005 to Saturday, June 18, 2005, to be reasonable and consistent with the public interest. We also find that Patterson has adequately complied with the requirements set forth under HRS § 271-16. Thus, we conclude that Patterson's June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted common carriers of property in the dump truck

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<sup>6</sup>Decision and Order No. 8722, filed on April 17, 1986, in Docket No. 5437 (granting Patterson a certificate of public convenience and necessity ("CPCN")); Decision and Order No. 18727, filed on August 9, 2001, in Docket No. 01-0198 (granting Ray's Rental a CPCN); and Decision and Order No. 21829, filed on May 19, 2005, in Docket No. 05-0052 (granting Manaba a CPCN).

<sup>7</sup>The commission also takes official notice, pursuant to Hawaii Administrative Rules ("HAR") § 6-61-48, of all commission records relating to Patterson, Ray's Rental and Manaba and other carriers operating on the island of Molokai.

<sup>8</sup>Per separate June 13, 2005 telephone conversations between Ray's Rental and Manaba with commission staff.

classification should be approved, subject to the following conditions:

1. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers utilized to perform the Proposed Service comply with the applicable insurance requirements set forth under HAR §§ 6-62-8.
2. Patterson shall ensure that the Proposed Service performed by non-certificated or non-permitted carriers is charged only at Patterson's approved tariff rates filed with the commission in accordance with HRS §§ 271-20 and 271-21.
3. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers comply with the safety requirements of the Motor Vehicle Safety Office, Department of Transportation, State of Hawaii.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. Patterson's June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday,

June 17, 2005, to Saturday, June 18, 2005, on the island of Molokai is approved, subject to the following conditions:

- a. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers utilized to perform the Proposed Service comply with the applicable insurance requirements set forth under HAR § 6-62-8.
- b. Patterson shall ensure that the Proposed Service performed by non-certificated or non-permitted carriers is charged only at Patterson's approved tariff rates filed with the commission in accordance with HRS §§ 271-20 and 271-21.
- c. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers comply with the safety requirements of the Motor Vehicle Safety Office, Department of Transportation, State of Hawaii.

Patterson's decision to commence the Proposed Service and utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday, June 17, 2005, to Saturday, June 18, 2005, on the island of Molokai, as authorized by this

Decision and Order, constitutes acceptance and agreement with the conditions and requirements of our approval, as set forth above.

2. Failure to adequately comply with the requirements set forth in this Decision and Order may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

3. This docket is closed unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii                     JUN 14 2005                    .

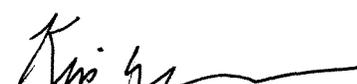
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By                     (EXCUSED)                      
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Kris N. Nakagawa  
Commission Counsel  
Patterson.eh



BVKK  
C: CC  
KN  
BS  
PN

#10 Manawainui Bridge  
P.O. Box 354  
Hoolehua, HI 96729

Phone (808) 553-3840  
Fax (808) 553-3591

Dear Mr. Chairman,

The Honolulu P.U.C. has told me that I need to make a formal request to hire some non-P.U.C. trucks.

Currently there are three P.U.C. Dump licenses on Molokai, Myself, (Patterson Construction) Raymond Kalilikane, & Manaba Enterprises; with all of our trucks combined, we have nine P.U.C. trucks. I need to load a barge Friday June 17, 2005, and I have a fourteen-hour period, to accomplish this I need to hire approximately 10 independent trucks that are non-P.U.C. licensed. I realize this is very short notice but barge dates are extremely hard to get on Molokai.

I appreciate you taking the time to look into this matter.

I am faxing you this letter because time is of the essence, due to the short notice I received from the barging company. I will also be mailing the original letter today.

Thank you.  
David E. Patterson  
06/09/05

PUBLIC UTILITIES  
COMMISSION

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FILED

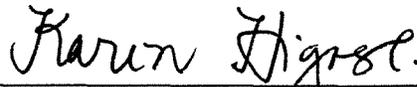
EXHIBIT 1

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21866 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

PATTERSON CONSTRUCTION & TRUCKING, INC.  
c/o DAVID E. PATTERSON, PRESIDENT  
P. O. Box 354  
Hoolehua, HI 96729

  
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Karen Higashi

DATED: JUN 14 2005