

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
 MAUI OIL COMPANY, INC.)
)
 For Temporary Extension of Contract)
 Carrier Authority.)
 _____)

Docket No. 05-0293
Decision and Order No. 22225

DECISION AND ORDER

By this Decision and Order, the commission grants MAUI OIL COMPANY, INC. ("Applicant") temporary authority to extend its authority under Permit No. 4606-P to include the transportation of specific commodities (petroleum products) over irregular routes on the island of Maui, pursuant to a contract with Chevron U.S.A., Inc. ("Chevron"), subject to certain conditions, as described herein.

I.

Application for Temporary Common Carrier Authority

Applicant is currently the holder of Permit No. 4606-P, which authorizes Applicant to deliver petroleum products to Maui Land and Pineapple Company, Inc.'s facilities situated in Haliimaile, Kapalua, and Honolua, on the island of Maui, pursuant to a contract with Chevron. On November 22, 2005, Applicant filed an application requesting temporary authority to extend its operating authority under Permit No. 4606-P to include (1) the additional and island-wide hauling of petroleum products on the island of Maui, pursuant to a contract with Chevron, and

(2) the authority to transport petroleum products on the island of Maui for contract clients in the future, provided that Applicant files executed contracts for such services with the Commission prior to the commencement of such services.¹ Applicant represents that Chevron is prepared to utilize Applicant as its primary carrier for the overflow that Chevron cannot handle because there is no other reliable and dependable contract carrier with Applicant's available hauling capacity on the island of Maui. 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.

II.

Findings and Conclusions

For a grant of temporary operating authority pursuant to HRS § 271-16, an applicant must satisfy two conditions. First, the applicant must establish that there is "an immediate and urgent need" for the proposed service. Second, the applicant must demonstrate "[an] absence of carrier service capable of meeting the need between points or in the territory where the

¹Applicant also filed an application for permanent authority on November 22, 2005, in Docket No. 05-0294.

temporary service will be instituted." See In re Robert's Tours & Transportation, Inc., Docket No. 96-0437, Decision and Order No. 15274, (December 23, 1996). Moreover, the commission may, at its discretion, grant temporary authority without hearings or other proceedings. HRS § 271-16.

Upon review, we find that Applicant's request to expand its services under Permit No. 4606-P meets the criteria for temporary authority set forth in HRS § 217-16. First, Applicant's proposed service is immediately and urgently needed, as Chevron requires Applicant as its primary carrier for any overflow that Chevron cannot handle. Second, Chevron requires Applicant's services because it is the only reliable and dependable carrier on the island of Maui with Applicant's hauling capacity. We, thus, conclude that Applicant's request for temporary operating authority to expand its operations island-wide 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 twenty (120) days. We conclude, therefore, that since Applicant satisfied the requirements for a grant of temporary authority to expand its operations island-wide, pursuant to HRS § 271-16, it should be granted temporary authority for a period of one hundred twenty (120) days.

In regard to Applicant's request that it be granted temporary authority to transport petroleum products on the island of Maui for contract clients in the future, provided that it file executed contracts for such services with the Commission prior to

the commencement of such services, the commission finds that Applicant's request for temporary authority does not meet the criteria set forth in HRS § 271-16, as applicant has not demonstrated that there is an immediate and urgent need for the authority. We, thus, find that Applicant's request for temporary authority to provide contract carrier services for clients in the future, provided that it file contracts with the commission prior to commencement of services, should be denied.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted temporary authority to operate as a contract carrier of property by motor vehicle over irregular routes on the island of Maui in the specific commodities (petroleum products) classification pursuant to a contract with Chevron. 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's request for temporary authority to transport petroleum products on the island of Maui for contract clients in the future, provided that Applicant files executed contracts for such services with the Commission prior to the commencement of such services, is denied.

3. Applicant shall comply with all of the commission's requirements for contract carriers by motor vehicle including, but not limited to, filing a new executed contract with Chevron (Applicant's current contract with Chevron expires on December 31, 2005). The contract must include all terms and conditions under which the hauling services are being provided, as well as the rates being charged.

4. 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.

5. Applicant shall not expand its operations island-wide until it has received written confirmation from the commission that all requirements have been met.

DONE at Honolulu, Hawaii JAN 13 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Stacey Kawasaki Djou
Commission Counsel

By (EXCUSED)
Wayne H. Kimura, Commissioner

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

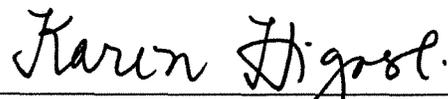
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22225 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

ALEC J. W. McBARNET
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Karen Higashi

DATED: JAN 13 2006