

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
YOUNG BROTHERS, LIMITED)
For Approval of Tariff Change to)
Eliminate Less Than Container Load)
Service to and from Kahului Harbor)
on the Island of Maui.)
Transmittal No. 06-0001.)
_____)

DOCKET NO. 2006-0120

ORDER NO. 22814

Filed Sept. 1, 2006
At 12 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

2006 SEP -5 A 9:18

RECEIVED

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

K. Higashi

to and from Kahului Harbor, island of Maui, effective from January 1, 2007; (2) making other tariff changes to effectuate its proposed discontinuance of LCL service; and (3) making certain other tariff changes for clarity purposes.

On August 23, 2006, Young Brothers filed a Notice of Withdrawal of Application ("Notice of Withdrawal")² in which it explains that it is withdrawing its Application, pursuant to and based on a Memorandum of Understanding, effective August 21, 2006 (the "MOU"),³ between Young Brothers, the Division of Consumer Advocacy, and the Department of Transportation ("DOT"). Under the terms of the MOU:

[T]he DOT states that it is willing to allocate certain additional harbor space to and complete certain harbor improvements for YB by dates specified in the MOU and YB states that, provided that DOT makes available such space and improvements as set forth in the MOU, YB is willing to continue [LCL] service to and from Kahului Harbor, as well as statewide, for the periods and as otherwise described in the MOU. Based on the DOT's representations and pursuant to the MOU, YB hereby withdraws its application that sought to discontinue, as of January 1, 2007, LCL service to and from Kahului Harbor.

Young Brothers' Notice of Withdrawal, at 1.

Having reviewed the Notice of Withdrawal, the commission approves Young Brothers' withdrawal of its Application without prejudice, and closes this docket.⁴ In approving the

²See also Young Brothers' letter, dated August 21, 2006 (notice of intent to withdraw its application).

³The MOU is attached as an exhibit to Young Brothers' notice of withdrawal.

⁴The commission held statewide public meetings for the purpose of providing interested persons the opportunity to comment on Young Brothers' proposal to discontinue LCL service to

withdrawal, the commission does not pass judgment on or rule on the merits of the MOU attached to the Notice of Withdrawal.

II.

Orders

THE COMMISSION ORDERS:

1. The withdrawal of Young Brothers' Application, filed on August 23, 2006, is approved, without prejudice.

2. The filing of Young Brothers' Reply Statement of Position and its responses to the commission's seventh set of information requests, both due by August 21, 2006, is moot.

and from Kahului Harbor. Public meetings were held on: (1) June 26, 2006, 6:00 p.m., Hilo, Hawaii; (2) June 27, 2006, 6:00 p.m., Kona, Hawaii; (3) July 3, 2006, 5:00 p.m., Kahului, Maui; (4) July 5, 2006, 5:00 p.m., Kaunakakai, Molokai; (5) July 6, 2006, 5:00 p.m., Honolulu, Oahu; (6) July 7, 2006, 5:00 p.m., Lihue, Kauai; and (7) July 8, 2006, 5:00 p.m., Lanai City, Lanai. See Notices of Public Meetings.

Mr. John E. Cole, in his capacity as Executive Director of the Division of Consumer Advocacy, testified at the Hilo and Kona public meetings. See Transcript of the Hilo Public Meeting, held on June 26, 2006, at 31 - 32; and Transcript of the Kona Public Meeting, held on June 27, 2006, at 18 - 19. Mr. Cole subsequently began his term as a Commissioner, effective on July 1, 2006. Commissioner Cole disqualified himself from participating in Docket No. 2006-0120, in order to avoid any questions as to his impartiality arising from his former position as Executive Director of the Division of Consumer Advocacy. See Commission letter, dated July 12, 2006. Thus, Commissioner Cole did not attend or participate in the Maui, Molokai, Oahu, Kauai, or Lanai public meetings.

Subsequently, the Parties and Participants affirmatively waived Commissioner Cole's disqualification, thereby enabling him to participate as a Commissioner in this docket. See Young Brothers' letter, dated July 13, 2006; HFBF's counsel's letter, dated July 14, 2006; WMTB's letter, dated July 14, 2006; HTA's letter, dated July 17, 2006; Division of Consumer Advocacy's letters, dated July 26 and 27, 2006; and HFBF's letter, dated July 27, 2006.

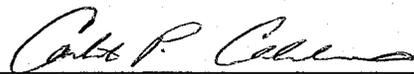
3. The prehearing conference scheduled for September 5, 2006, 9:00 a.m., at the commission's conference room, is cancelled as moot.

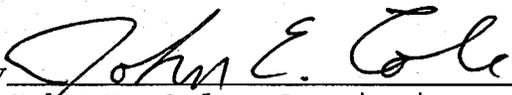
4. The evidentiary hearing scheduled for September 6, 2006, 9:00 a.m., at the commission's hearing room, is cancelled as moot.

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

DONE at Honolulu, Hawaii SEP - 1 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

2006-0120.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22814 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
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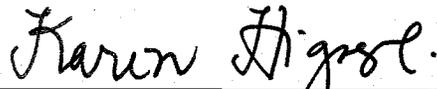
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Karen Higashi

DATED: SEP - 1 2006