

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
YOUNG BROTHERS, LIMITED)
For Allowance of Rate Flexibility)
Within a Reasonable Zone or, in)
the Alternative, for a General Rate)
Increase.)
_____)

DOCKET NO. 01-0255

ORDER NO. 24179

Filed May 7, 2008
At 12 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

DIV. OF COUNCIL ADVOCACY
DEPT. OF LAND AND
NATURAL RESOURCES
COMMERCIAL AFFAIRS
STATE OF HAWAII

2008 MAY -8 A 8:53

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

Karen Higashi

In the Matter of the Application of)
YOUNG BROTHERS, LIMITED)
For Allowance of Rate Flexibility)
Within a Reasonable Zone or, in)
the Alternative, for a General Rate)
Increase.)

Order No. 24179

¹The Parties are Young Brothers and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules § 6-61-62(a).

Parties on December 19, 2007 ("2007 Stipulation").² The commission, in approving the 2007 Stipulation, noted in part:

The Zone, which was initially established as a pilot program, expired on December 20, 2007. The commission, pursuant to HRS chapter 271G, establishes the New Zone, which shall take effect from the date of this Decision and Order. Contrary to the Parties' request, the New Zone will not retroactively apply to January 1, 2008. Instead, the New Zone will take effect on a prospective basis, from the date of this Decision and Order.

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The New Zone, as approved by this Decision and Order, will consist of the parameters set forth in Section I.C, Paragraphs No. 1 to No. 6, above, as modified herein by the commission. For clarity purposes and ease of administration, Young Brothers shall file a document that sets forth the parameters of the New Zone, which incorporates the commission's modifications, including the effective date of the New Zone.

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THE COMMISSION ORDERS:

1. The Parties' 2007 Stipulation, filed on December 19, 2007, is approved, as modified herein by the commission.

2. The New Zone, pursuant to the parameters referenced in Section II.C, above, as modified herein by the commission, shall take effect from the date of this Decision and Order.

3. By April 23, 2008, Young Brothers shall file a document that sets forth the parameters of the New Zone, which incorporates the commission's modifications, including the effective date of the New Zone.

Decision and Order No. 24139, at 28 and 30 (emphasis added).

²Decision and Order No. 24139, filed on April 9, 2008.

On April 22, 2008, Young Brothers filed its Parameters of Zone Practice of Young Brothers, Limited Pursuant to Decision and Order No. 24139.

II.

New Zone

Young Brothers' April 22, 2008 filing sets forth the parameters of the New Zone for Young Brothers, as approved by the commission in Decision and Order No. 24139, including the April 9, 2008 effective date of the New Zone. The commission accepts Young Brothers' filing, a copy of which is attached as an exhibit to this Order.

III.

Order

THE COMMISSION accepts YOUNG BROTHERS, LIMITED's April 22, 2008 filing, which sets forth the parameters of the new Zone Practice for Young Brothers, as previously approved by the commission in Decision and Order No. 24139; provided, however, that in the event of any conflict, omission, or ambiguity, Decision and Order No. 24139, or any other applicable commission order or rule shall control.

DONE at Honolulu, Hawaii

MAY - 7 2008

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:



Michael Azama
Commission Counsel

01-0255.sl

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
YOUNG BROTHERS, LIMITED) Docket No. 01-0255
For Allowance of Rate Flexibility)
Within a Reasonable Zone or, in)
the Alternative, for a General Rate Increase)

PUBLIC UTILITIES
COMMISSION

2008 APR 22 P 2:35

FILED

**PARAMETERS OF ZONE PRACTICE OF YOUNG BROTHERS, LIMITED
PURSUANT TO DECISION AND ORDER NO. 24139**

APPLICANT YOUNG BROTHERS, LIMITED
P. Roy Catalani
Sandra Y. Hoshida
Young Brothers, Limited
P. O. Box 3288
Honolulu, Hawaii 96801

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
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YOUNG BROTHERS, LIMITED)	Docket No. 01-0255
)	
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Within a Reasonable Zone or, in)	
the Alternative, for a General Rate Increase)	
)	

**PARAMETERS OF ZONE PRACTICE OF YOUNG BROTHERS, LIMITED
PURSUANT TO DECISION AND ORDER NO. 24139**

YOUNG BROTHERS, LIMITED ("*Young Brothers*") respectfully files with the Public Utilities Commission of the State of Hawaii (the ***Commission***) its Parameters of Zone Practice of Young Brothers, Limited Pursuant to Decision and Order No. 24139, attached to this filing as Exhibit A (***Zone Practice Parameters***). This submission is made pursuant to the Commission's directive in Decision and Order No. 24139.

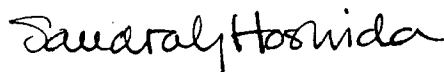
In its decision at page 28, the Commission directs, "[f]or clarity purposes and ease of administration, Young Brothers shall "file a document that sets forth the parameters of the New Zone, which incorporates the commission's modifications, including the effective date of the New Zone." The Commission's modifications were made to the agreement between Young Brothers and the Division of Consumer Advocacy of the State Department of Commerce and Consumer Affairs (the ***Consumer Advocate***) (the Consumer Advocate and Young Brothers referred to in this document as the ***Parties***) set forth in Stipulation between Young Brothers, Limited and the Division of Consumer Advocacy Regarding Young Brothers' Rate Flexibility Within a Reasonable Zone (***Stipulation***) filed with the Commission on December 19, 2007.

To achieve the Commission's aim of clarity and ease of administration, Young Brothers has set forth the following in the Zone Practice Parameters:

- Defined capitalized terms consistent with their definitions in the Stipulation.
- Removed text associated with the 10-month time interval between Zone Practice filings.
- Revised the parameters to reflect a maximum increase of 5.5 percent per line of service per year and to reflect an Effective Date of April 9, 2008.
- Reworded affected passages to avoid awkwardness.
- Recognized, for administrative ease purposes, that the Zone Practice may be modified (as well as terminated) either through a request of Young Brothers or the Consumer Advocate that is approved by the Commission or through an order of the Commission on its own motion. See paragraph 2 of Zone Practice Parameters.
- Clarified that footnote 3 applies to general rate case filings (as well as to Young Brothers' Zone Practice).

DATED: Honolulu, Hawaii, April 22, 2008.

YOUNG BROTHERS, LIMITED

for By 
 P. ROY CATALANI
 Its Vice President of Strategic Planning
 and Government Affairs

**PARAMETERS OF ZONE PRACTICE OF YOUNG BROTHERS, LIMITED
PURSUANT TO DECISION AND ORDER NO. 24139**

1. Zone of Reasonableness. The parameters of Young Brothers' Zone Practice¹ are as follows:

a. Commencing with the effective date of Young Brothers' new Zone Practice, which is April 9, 2008 (the **Effective Date**), Young Brothers is authorized to seek a maximum overall rate increase of 5.5 percent, with a maximum increase of 5.5 percent for any customer class (as allowed in the Pilot Program), over the minimum time period set forth below in paragraph 6.

b. Commencing with the Effective Date, Young Brothers is authorized to seek a maximum decrease of 10 percent over the minimum time period set forth below in paragraph 6(a) for any customer class or classes (as allowed in the Pilot Program) on the condition that any decrease proposed for a given customer class does not result in non-compensatory rates for the customer class.

2. Term. Young Brothers' Zone Practice shall remain in effect until terminated or modified either through a request of Young Brothers or the Consumer Advocate that is approved by the Commission or through an order of the Commission on its own motion.² Thus, the Zone Practice shall no longer be a pilot program.

¹ In Decision and Order No. 19115 (Docket No. 01-0255), dated December 20, 2001, the Commission approved the Stipulation between Young Brothers, Limited and the Division of Consumer Advocacy Regarding Young Brothers Application for Rate Flexibility within a Reasonable Zone that, among other things, authorized a three-year pilot rate flexibility program (the **Pilot Program**). On December 6, 2004, Young Brothers and the Consumer Advocate filed a stipulation relating to continuing the previously approved three-year rate flexibility Pilot Program (December 20, 2001 to December 20, 2004) for an additional three years (December 20, 2004 to December 20, 2007). In Decision and Order No. 21768 filed on April 22, 2005, the Commission approved the extension as agreed to by the Parties.

² The Parties reserve their right, via a motion for an order to show cause or similar pleading, to revisit continuation of the Zone Practice should circumstances arise in the future that warrant reconsideration of the Zone Practice.

3. **Cost of Service.** Young Brothers shall file a cost of service study under protective order by June 30 of each year that the Zone Practice remains in effect to reflect the prior year's results. As in the Pilot Program and in the cost of service model as approved by the Commission, this filing will include a breakdown between regulated and non-regulated revenues, expenses, and plant investment, and should enable the Parties to determine the contribution margin of each of the then existing lines of service, based on current operations that are normalized for rate setting purposes.

4. **Notice of Proposed Rate Change Through Zone Practice.** As in the Pilot Program, Young Brothers will continue to comply with HRS § 271G-17(b), which specifically provides that:

No change shall be made in any rate, . . . except after forty-five days' notice of the proposed rate change filed and posted

During the 45-day period after notice of a proposed rate change, the Consumer Advocate will have the opportunity to review Young Brothers' proposal and recommend suspension of the proposed change if there are any concerns that cannot be resolved within the 45-day period.³

5. **Documents Supporting Rate Change Through Zone Practice.** As in the Pilot Program, Young Brothers will provide the following financial information with its Zone Practice filing:

- a. Prior year financial statements;⁴

³ Should Young Brothers provide more than 45-days' notice of the effective date of any proposed rate change under the Zone Practice or under a general rate case filing, the Consumer Advocate's request for suspension shall be filed prior to the fifteenth day preceding the effective date of the proposed rate change.

⁴ The financial statements should include the confidential information supporting Young Brothers' tug operations.

b. Test year financial statements, normalized for rate setting purposes, in the format similar to the monthly financial statements that Young Brothers submits to the Commission;⁵

c. The impact of the proposed change to Young Brothers' authorized allowed rate of return for the test year;

d. The impact of the proposed change to the contribution margin, as described in paragraph 3 above, as represented in the most recent cost of service study.⁶

6. Minimum Time Periods Between Rate Increases via Zone Practice.

a. Minimum Time Between Successive Zone Practice Filings.

Young Brothers may seek rate increases and/or decreases in a Zone Practice filing to be effective no earlier than twelve (12) months after the effective date of any decision and order in an immediately preceding Zone Practice filing.⁷ By "effective date" of a filing, whether of a general rate case or Zone Practice filing, the Parties mean the effective date of a rate increase or decrease as ordered by the Commission.

⁵ See *supra* note 4

⁶ For a general rate case filing, the cost of service model results should be based on the test year revenue requirement data and reflect the impact of the changes sought in the general rate case filing on the most recent cost of service model results.

⁷ Within such minimum twelve-month periods between Zone Practice filings, Young Brothers may seek the maximum percentage increases in a single Zone Practice filing as described above in paragraph 1(a) or it may seek such maximum percentage increases in more than one Zone Practice filing in such twelve-month period. By way of example and not of limitation, if Young Brothers seeks a 5.5 percent overall increase to be effective on August 1 of year 1 following the Stipulation, Young Brothers may submit another Zone Practice filing for an effective date twelve months thereafter, on August 1 of year 2, seeking a 5.5 percent overall increase. However, if Young Brothers seeks, for example, a 3.5 percent increase to be effective on August 1 of year 1, it may seek an additional 2 percent increase to be effective on, for example, December 1 of year 1 and thereafter submit another Zone Practice filing seeking a 5.5 percent overall increase to be effective on August 1 of year 2.

b. Minimum Time Between General Rate Case Filing and Zone

Practice Filing. The following minimum time intervals between effective dates of a general rate case filing and a Zone Practice filing shall apply:

- i. Should Young Brothers elect to seek an increase under the Zone Practice in calendar year 2008, Young Brothers may seek rate increases and/or decreases in a Zone Practice filing to be effective no earlier than August 1, 2008.
- ii. For all filings thereafter, Young Brothers may seek rate increases and/or decreases in a Zone Practice filing to be effective no earlier than one year after the effective date of any decision and order in an immediately preceding general rate case filing (*i.e.*, general rate increase followed by Zone Practice filing).
- iii. Young Brothers may seek rate increases and/or decreases under a general rate case to be effective no earlier than one year⁸ after the effective date of a decision and order in the immediately preceding Zone Practice filing (*i.e.*, Zone Practice increase followed by general rate case filing).⁹

c. No Effect on Other Statutory Rate Relief Rights. Except as expressly stated in the foregoing "Parameters of Zone Practice of Young Brothers, Limited", Young Brothers' statutory rights to seek rate relief (or rate adjustments) are not in any way affected or limited by this document.

⁸ See *supra* note 3.

⁹ Within such minimum one-year periods between the effective date of a Zone Practice filing and the effective date of a general rate case filing, Young Brothers may seek the maximum percentage increases in a single Zone Practice filing as described above in paragraph 1(a) or it may seek such maximum percentage increases in more than one Zone Practice filing in such one-year period. By way of example and not of limitation, Young Brothers may seek a 5.5 percent overall increase to be effective on August 1 of year 1 following the Stipulation. However, if YB seeks, for example, a 3.5 percent increase to be effective on August 1 of year 1, it may seek an additional 2 percent increase to be effective on, for example, December 1 of year 1 and thereafter file a general rate case seeking an effective date of August 1 of year 2.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24179 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
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DIVISION OF CONSUMER ADVOCACY
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Counsel for YOUNG BROTHERS, LIMITED



Karen Higashi

DATED: MAY - 7 2008