

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

HONE HEKE CORPORATION,
dba EXPEDITIONS

For a General Rate Increase.

DOCKET NO. 2008-0026

ORDER NO. 24231

Filed May 15, 2008
At 12 o'clock P.M.

Karen Higuel
Chief Clerk of the Commission

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

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By this Order, the commission rejects without prejudice the application for approval of a general rate increase filed by HONE HEKE CORPORATION, dba EXPEDITIONS ("Hone Heke"), on April 18, 2008.¹

Background

Hone Heke is a water carrier authorized to transport passengers and property between the islands of Lanai and Maui.² Pursuant to its Tariff No. 2, Hone Heke provides water carrier transportation service between: (1) Lahaina Harbor, Maui, and Manele Harbor, Lanai; and (2) between Maalaea Harbor, Maui, and Manele Harbor, Lanai. Hone Heke's water carrier operations are subject to the commission's jurisdiction.

¹Application For General Rate Increase; Oath; Exhibits 1 to 7; and Certificate of Service, filed on April 18, 2008 (collectively, "Application").

²In re Hone Heke Corp., dba Expeditions, Docket No. 6736, Decision and Order No. 10833, filed on November 5, 1990 (certificate of public convenience and necessity granted to Hone Heke).

On February 11, 2008, Hone Heke filed its Notice of Intent to file a general rate increase application, pursuant to HAR § 6-61-85(a). On April 18, 2008, Hone Heke filed its Application, seeking the commission's approval to: (1) increase its fares for certain of its passenger classifications; and (2) establish a new passenger classification and corresponding fare, designated as Guest, for passengers who are guests of the Four Seasons Hotels on Maui and Lanai. Hone Heke does not seek to: (1) increase any of its fares associated with the transportation of property; and (2) implement a fuel surcharge as part of its Application.³

Hone Heke notes that since the commencement of its water carrier operations in 1990, it has not increased its fares. Nonetheless, despite its best efforts throughout the ensuing years to improve its operational and fuel efficiencies, cost increases related to fuel, insurance, wages and benefits, and other operational expenses, together with the subsidization of its passenger operations by its other operations, necessitates increases in certain of its passenger fares.

II.

Discussion

HRS § 271G-17 states in relevant part:

Tariffs of water carriers. (a) Every water carrier shall file with the public utilities commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services

³See Commission's letters, dated April 25 and 28, 2008 (no implementation of a fuel surcharge).

in connection therewith, of passengers or property. The rates, fares, and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed, and posted in such form and manner, and shall contain such information as the commission by regulations shall prescribe; and the commission may reject any tariff filed with it which is not in consonance with this section and with the regulations. Any tariff so rejected by the commission shall be void and its use shall be unlawful.

(b) No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting the rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a water carrier, except after forty-five days' notice of the proposed change filed and posted in accordance with subsection (a); provided that changes to a fuel surcharge approved by the commission may be made after thirty days' notice of the proposed change filed and posted in accordance with subsection (a). The notice shall plainly state the change proposed to be made and the time when it will take effect. The commission may in its discretion and for good cause shown allow the change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(c) No water carrier shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by the carrier have been filed and published in accordance with this chapter.

(d) Whenever there is filed with the commission any schedule stating a new rate, fare, or charge, for the transportation of passengers or property by a water carrier or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the carrier may on its own initiative, or shall by order of the commission served prior to the effective date of the schedule, concurrently file a pro forma statement of account which shall be prepared under the same form and in the same manner as prescribed by the commission's uniform system of accounts.

The commission may upon complaint of any interested person or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, enter upon a hearing concerning the lawfulness of the rate, fare, or charge, or the rule, regulation, or practice, and pending the hearing and the decision thereon the commission, by delivering to the carrier or carriers affected thereby a statement in writing of its reasons therefor, may suspend the operation of the schedule and defer the use of the rate, fare, or charge, or the rule, regulation or practice. From the date of ordering a hearing to investigate the lawfulness of the rate, fare, or charge, the commission shall have up to six months to complete its investigation. If the commission fails to issue a final order within the six-month period then the changes proposed by the carrier shall go into effect. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice, is just and reasonable.

(e) When a rate increase application is filed,

HRS § 271G-17 (emphasis added); see also HAR § 6-61-39 ("The commission, at its discretion, may reject any proposed tariff change if lawful notice of the proposed change has not been given or if the proposed change fails to meet the requirements of the commission's rule or violates any commission order.").

HAR § 6-65-31, governing applications for a general rate increase filed by water carriers, states:

General rate increase - supporting documents and information. (a) Any application for a tariff change that constitutes a request for a general rate increase must be preceded by a notice of intent to seek such change in conformance with §6-61-85, except when the change is due to a fuel surcharge approved by the commission.

(b) The application described in subsection (a) must be accompanied by the following documents and information:

- (1) Balance sheet and income statement for the prior calendar year;
- (2) Latest available balance sheet that is not older than two months before the date of filing of the application;
- (3) Income statement from January 1 through the date of the latest available balance sheet;
- (4) Recorded actual results of operations for the prior calendar year;
- (5) Depreciation schedule supporting the latest financial report and the projected results of operations;
- (6) Projected results of operations for the test year as prescribed in subsection (c);
- (7) Rate base computation, including property and equipment of related companies. The carrier shall include in the computation the beginning and ending balances for each of the following ratemaking components:
 - (A) Plant in service and accumulated depreciation;
 - (B) Materials and supplies inventory, working cash, and other additions to rate base;
 - (C) Deferred income taxes, investment tax credits, and other deductions to rate base; and
 - (D) Breakdown of related companies' property or equipment investment allocated to the carrier, such as tugs. For each investment of related companies, the carrier shall specifically identify the original cost, accumulated depreciation, and the basis of allocation;
- (8) Schedule on computation of working cash;
- (9) Summary of charter hire expenses paid by the water carrier to related companies by island and by month for the periods specified in §6-65-31(e). The carrier shall identify in the exhibit the equipment or service provided by and the total expense paid to the related company;

- (10) Schedule of operating revenues for all ports. The carrier shall indicate in the schedule, by port, the outbound and inbound tonnage for property carriers, the number of passengers for passenger carriers, and the outbound and inbound revenues. The carrier shall make available to the commission worksheets showing a breakdown for each port of the major descriptive categories with corresponding tonnage or numbers of passengers; and
- (11) Written direct testimony, exhibits, and supporting workpapers justifying the requested general rate increase.

(c) The projected results of operations must include the following information, except that a carrier with annual gross operating revenues below \$2 million need not provide the information specified in paragraphs (4) and (5):

- (1) Projected operating revenues by major accounts;
- (2) Projected operating expenses by major accounts, including depreciation, amortization, taxes other than income taxes, and income taxes;
- (3) Net projected operating income;
- (4) Proposed rate base;
- (5) Proposed rate of return on rate base; and
- (6) Projected operating ratio.

The revenue and expense projections by major accounts must be supported by separate schedules itemizing revenues and expenses by subaccounts. The projected results of operations must reflect any allocation of expenses from the carrier's affiliates and any allocation of revenues and expenses between the carrier's regulated and nonregulated operations. Any such allocation of revenues and expenses must be supported by appropriate worksheets and schedules

(d) In addition to the information and data submitted pursuant to subsection (b), the commission may require a water carrier to submit additional information and data. Unless ordered otherwise, the carrier shall submit the information and data to the commission within fifteen days following the commission of the commission's request.

(e) The test year for any general rate increase application is:

- (1) January 1 to December 31 of the year in which the application is filed, if the application is filed within the first six months of the year; and
- (2) January 1 to December 31 of the year following the year in which the application is filed, if the application is filed within the last six months of the year.

HAR § 6-65-31.

Here, Hone Heke's Application is incomplete in that it does not comply with the applicable requirements set forth in HAR § 6-65-31. Specifically, Hone Heke's Application lacks certain information, including, but not necessarily limited to: the identification and use of a twelve-month test year period (HAR § 6-65-31(e));⁴ the projected results of operations for the test year (HAR § 6-65-31(b)(6) and (c)); rate base computation (HAR § 6-61-31(a)(7)); and direct written testimony and any supporting workpapers justifying the general rate increase (HAR § 6-65-31(b)(11)).⁵ Accordingly, the commission rejects Hone Heke's Application, without prejudice, pursuant to HRS § 269-17(a) and HAR § 6-61-39.⁶

⁴Page 9 and Exhibit 6 of the Application refers to "test year," but a specific twelve-month test year period is not otherwise identified or utilized by Hone Heke.

⁵The commission notes that the exhibits already attached to the Application may also appear deficient. For example, the water carrier attaches its depreciation schedule from its 2006 income tax returns as its depreciation schedule for ratemaking purposes.

⁶Pursuant to HAR § 6-65-31(e), an application for a general rate increase: (1) filed within the first six months of 2008 must utilize a 2008 calendar test year; and (2) filed within the last six months of 2008 must utilize a 2009 calendar test year.

III.

Orders

THE COMMISSION ORDERS:

1. Hone Heke's Application, filed on April 18, 2008, is rejected without prejudice, pursuant to HRS § 269-17(a) and HAR § 6-61-39.

2. Should Hone Heke seek to re-file its application for a general rate increase in this docket, it must do so by June 30, 2008. Otherwise, the filing of an application for a general rate increase after June 30, 2008, must: (1) be preceded by the filing of a notice of intent at least two months in advance of the filing of the application, and with a new docket number assigned by the commission; and (2) utilize the applicable test year set forth in HAR § 6-65-31(e).

Here, because Hone Heke filed its Application on April 18, 2008, it must utilize a 2008 calendar test year. Thus, it has until June 30, 2008, to re-file its application for a general rate increase utilizing the 2008 calendar test year. Accordingly, if Hone Heke seeks to re-file its application in this docket (Docket No. 2008-0026), the commission sets a deadline date of June 30, 2008. Otherwise, if Hone Heke chooses to file its application after June 30, 2008, the application must: (1) be preceded by the filing of a notice of intent at least two months in advance of the filing of the application, consistent with HAR §§ 6-65-31(a) and 6-61-85, and with a new docket number assigned by the commission; and (2) utilize the applicable test year set forth in HAR § 6-65-31(e).


DONE at Honolulu, Hawaii

MAY 15 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

2008-0026.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24231 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: MAY 15 2008