

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
YOUNG BROTHERS, LIMITED )  
For Approval of a General Rate )  
Increase and Certain Tariff )  
Changes. )

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DOCKET NO. 2008-0266

ORDER APPROVING THE PARTIES'  
REQUEST TO AMEND THE REGULATORY SCHEDULE

RECEIVED

2009 MAY 15 A 10:05

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

PUBLIC UTILITIES  
COMMISSION

2009 MAY 14 P 1:53

FILED



<u>Procedural Step</u>	<u>Date(s)</u>
9. Prehearing conference, if necessary	Week of May 4, 2009
9A. Settlement agreement, if any*	May 8, 2009
*Footnote 2: Parties will promptly notify the Commission of any settlement and revise the Stipulated Regulatory Schedule in writing and subject to the Commission's approval, or upon the Commission's own motion.	
10. Evidentiary hearing, unless waived by the Parties*	May 13-14, 2009
*Footnote 3: See n.2, above.	
11. Parties' simultaneous opening briefs	June 12, 2009
12. Parties' simultaneous reply briefs, if necessary	June 19, 2009
13. [Deleted]	
14. Parties' request for a decision and order by this date*	July 17, 2009
*Footnote 4 Parties request a decision and order by this date so that YB can provide its customers with two and one-half weeks' notice prior to the effective date of any new rates.	
15. Effective date of any rate increase*	August 3, 2009
*Footnote 5 Under Parameters of Zone Practice of Young Brothers, Limited Pursuant to Decision and Order No. 24139 filed in Docket No. 01-0255 on April 22, 2008 and accepted by the Commission by Order No. 24179 filed on May 7, 2008, the Commission ruled that YB may seek rate increase and decreases, or both, under a general rate case to be effective no earlier than one year after the effective date of a decision and order in the immediately preceding Zone Practice filing. By Decision and Order filed on July 29, 2008, the Commission approved an across-the-board 5.5 percent increase in rates proposed by Young Brothers in a zone practice filing under Transmittal No. 08-0005, to be "effective from August 1, 2008." Accordingly, any rate increases approved by the Commission in this present proceeding may not be effective before August 1, 2009. See also section 271G-17, Hawaii Revised Statutes, and section 6-65-40, Hawaii Administrative Rules, ("A tariff suspension ordered by the commission may not exceed six months from the date of the issuance of the commission's order suspending the operation of the tariff.").	

See Ordering Paragraph No. 2 of Order Approving the Parties' Request to Amend the Regulatory Schedule, filed on April 27, 2009; see also Order Approving Proposed Stipulated Procedural Order, as Modified, filed on March 5, 2009.<sup>2</sup>

On May 7, 2009, the Parties filed their Stipulated Motion for Evidentiary Hearing Waiver and Enlargement of Time to File Settlement Agreement.<sup>3</sup> By their Stipulated Motion, the Parties request that the commission approve: (1) the Parties' waiver of the evidentiary hearing and any remaining prehearing and post-hearing procedures; (2) the Parties' request to convert the prehearing conference, scheduled for May 8, 2009, into a status conference; and (3) a six-day extension of time, from May 8, 2009 to May 14, 2009, for the Parties to file a stipulation settling the issues in this proceeding.<sup>4</sup>

The Parties, in support of their request to waive the evidentiary hearing and remaining prehearing and post-hearing procedures and to extend by six days the deadline to file their stipulation, state that: (1) after vigorous negotiations, they have settled, in principle, all of the issues in this proceeding; (2) they will continue to confirm that the financial data

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<sup>2</sup>With respect to Procedural Step No. 9, the prehearing conference was scheduled for May 8, 2009. See Commission's letter, dated April 20, 2009.

<sup>3</sup>Stipulated Motion for Evidentiary Hearing Waiver and Enlargement of Time to File Settlement Agreement; Proposed Exhibit A; and Certificate of Service, filed on May 7, 2009 ("Stipulated Motion").

<sup>4</sup>With respect to the second request, the commission notified the Parties that: (1) the prehearing conference was cancelled as moot; (2) the requested status conference was unnecessary, and thus, would not be held; and (3) they were excused from appearing before the commission on May 8, 2009.

accurately reflects their agreement before re-running a final cost of service study; (3) they are currently memorializing the details of their agreement; and (4) a stipulation will be administratively more efficient than the continued prosecution of this rate case.

HAR § 6-61-23, governing enlargements of time, provides:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

- (1) With or without motion or notice, order the period enlarged, if written request is made before the expiration of the period originally prescribed or as extended by a previous order; or
- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action on jurisdictional matters and where any order expressly provides that no enlargement shall be granted.

(b) Motions for extensions of time and requests or stipulations for continuances must be in writing, except when made at hearing. Ordinarily, when a matter is to be submitted on concurrent briefs, extensions will not be granted unless a stipulation is filed with the commission.

HAR § 6-61-23; see also Procedural Order, Section II, Schedule of Proceedings (the stipulated regulatory schedule may be amended as agreed-upon by the Parties in writing and approved by the commission, or upon the commission's own motion), and Section VII, General (the Procedural Order shall control the subsequent course of this proceeding, unless modified by the

Parties in writing and approved by the commission, or upon the commission's own motion).

Based on the Parties' representations, the commission finds good cause, and thus, approves the Parties' request to amend the regulatory schedule. Accordingly, the commission approves: (1) the Parties' waiver of the prehearing conference, evidentiary hearing, and the filing of post-hearing briefs;<sup>5</sup> and (2) a six-day extension of time, from May 8, 2009 to May 14, 2009, for the Parties to file their settlement agreement.<sup>6</sup>

## II.

### Orders

#### THE COMMISSION ORDERS:

1. The Parties' request, filed on May 7, 2009, to amend the regulatory schedule, is approved. Accordingly, the commission approves: (A) the Parties' waiver of the prehearing conference, evidentiary hearing, and the filing of post-hearing

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<sup>5</sup>While the Parties waive "the evidentiary hearing and any prehearing and post-hearing procedures in Docket No. 2008-0266[,]" Stipulated Motion, at 1, the commission does not interpret their statement to mean the waiver of the six-month deadline for the commission to issue its decision and order by July 29, 2009. See Order Approving Proposed Stipulated Procedural Order, as Modified, filed on March 5, 2009, at 3 (the six-month deadline for the commission to issue its decision and order is July 29, 2009, pursuant to HRS § 271G-17(d) and HAR § 6-65-40(c)). Instead, by approving the Parties' waiver request, the prehearing conference and evidentiary hearing are cancelled as moot, thereby also rendering moot the filing of post-hearing briefs.

<sup>6</sup>The Parties' request for a status conference was deemed unnecessary by the commission. The Parties, in their Stipulated Motion, explain the current status of this proceeding.

briefs; and (B) a six-day extension of time, from May 8, 2009 to May 14, 2009, for the Parties to file their settlement agreement.

2. The remaining procedural steps of the regulatory schedule are amended to read as follows:

9A. Settlement agreement, if any May 14, 2009

10. to 13. [Deleted]

14. Parties' request for a decision and order by July 17, 2009  
this date\*

\*Footnote 4

Parties request a decision and order by this date so that YB can provide its customers with two and one-half weeks' notice prior to the effective date of any new rates.

15. Effective date of any rate increase\* August 3, 2009

\*Footnote 5

Under Parameters of Zone Practice of Young Brothers, Limited Pursuant to Decision and Order No. 24139 filed in Docket No. 01-0255 on April 22, 2008 and accepted by the Commission by Order No. 24179 filed on May 7, 2008, the Commission ruled that YB may seek rate increase and decreases, or both, under a general rate case to be effective no earlier than one year after the effective date of a decision and order in the immediately preceding Zone Practice filing. By Decision and Order filed on July 29, 2008, the Commission approved an across-the-board 5.5 percent increase in rates proposed by Young Brothers in a zone practice filing under Transmittal No. 08-0005, to be "effective from August 1, 2008." Accordingly, any rate increases approved by the Commission in this present proceeding may not be effective before August 1, 2009. See also section 271G-17, Hawaii Revised Statutes, and section 6-65-40, Hawaii Administrative Rules, ("A tariff suspension ordered by the commission may not exceed six months from the date of the issuance of the commission's order suspending the operation of the tariff.").

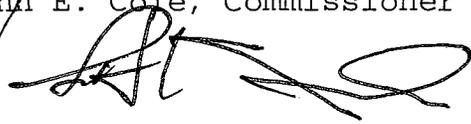
DONE at Honolulu, Hawaii

MAY 14 2009

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

2008-0266.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

P. ROY CATALANI  
VICE PRESIDENT OF STRATEGIC PLANNING  
AND GOVERNMENT AFFAIRS  
YOUNG BROTHERS, LIMITED  
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Honolulu, HI 96801