





I.

Background<sup>2</sup>

The Zone of Reasonableness Program authorizes motor carriers to seek a maximum overall ten percent increase in their rates or a maximum decrease of ten percent within a twelve-month calendar period, pursuant to a streamlined commission review process. Motor carrier rate changes that fall within this range of reasonableness are presumptively just and reasonable, which is, however, a rebuttable presumption.

By Decision and Order No. 23862, filed on December 3, 2007, the commission extended the Zone of Reasonableness Program for four years (2008 - 2011), subject to certain conditions:

15. To address the commission's concern of WMTB utilizing the Zone automatically for all of its members to the Zone's maximum potential each year, the commission will require that motor carriers of property and passengers with annual gross revenues of more than \$1 million, file with the commission HAW-PUC Form 03-020 (Annual Report of Passenger and Property Carriers) by June 1 for each four calendar year period during which the Zone remains in effect. Thus, the first filing will be due on June 1, 2009, for the 2008 calendar year period.

The greater than \$1 million threshold comprises approximately seventy-five percent of the revenues generated by motor carriers of property and passengers, respectively -- a sufficient "representative sample" of the motor carrier industry and its operations. The commission will review the filings submitted by these carriers for the purpose of monitoring the revenues generated and expenses incurred by this "representative sample," in determining whether the Zone is continuing to operate in the public interest.

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<sup>2</sup>The commission takes administrative notice of the information and data on file governing motor carriers of passengers and property.

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Furthermore, the commission intends to continue its close monitoring of WMTB's actions during the extended Zone period. In particular, through its examination of the annual financial reports (HAW-PUC Form 03-020) completed and submitted by the "representative sample" carriers, should the commission determine that WMTB's actions of continuing to seek annual, maximum rate increases of statewide impact under the Zone, result in unreasonable levels of operating ratios or excessive profits for its member carriers, the commission may consider terminating the Zone, as inconsistent with the public interest.

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THE COMMISSION ORDERS:

1. The Zone of Reasonableness program is extended for an additional four calendar years, from January 1, 2008 up to and including December 31, 2011, pursuant to the parameters set forth in Section II.C, above[, of Decision and Order No. 23862].

2. The commission reserves the right, at any time, to: (A) review and adjust the Zone or its applicable requirements; or (B) terminate the Zone, upon a finding that the Zone appears to adversely affect the public interest.

3. Motor carriers of property and passengers with annual gross revenues of more than \$1 million shall file with the commission HAW-PUC Form 03-020 (Annual Report of Passenger and Property Carriers) by June 1 for each of the four calendar years during which the Zone remains in effect. Thus, the first filing will be due on June 1, 2009, for the 2008 calendar year period.

4. If the commission determines that WMTB's actions of continuing to seek annual, maximum rate increases of statewide impact under the Zone, result in unreasonable levels of operating ratios or excessive profits for its member carriers, the commission may consider modifying the Zone (including by limiting or prohibiting joint applications for increases under the Zone) or terminating the Zone, as inconsistent with the public interest.

5. The commission, on an on-going basis, will accept written comments and feedback from the general public and motor carrier community on the impacts of the Zone.

6. Upon the completion of the extended Zone period, the Zone will be terminated, unless otherwise modified or continued by the commission.

Decision and Order No. 23862, at 24-25 and 30-32 (footnote and text therein omitted) (emphasis added).

## II.

### Discussion

This Order examines motor carrier rate changes implemented during the 2008 calendar year period for the purpose of determining whether the continuation of the Zone of Reasonableness Program is consistent with the public interest. Specifically, the commission examines whether rate increases implemented by WMTB during 2008 pursuant to the Zone of Reasonableness Program have resulted in unreasonable levels of operating ratios or excessive profits for its member carriers.

Motor carriers with annual gross revenues in excess of \$1 million completed and submitted HAW-PUC Form 03-020 for 2008, as follows:<sup>3</sup>

1. Fifty-five property carriers, of which thirty-three are members of WMTB.

2. Thirty passenger carriers, of which sixteen are members of WMTB.

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<sup>3</sup>The commission extended the due date for the completion and submission of HAW-PUC Form 03-020, from June 1, 2009 to July 31, 2009.

Upon review of the current available information and data, the commission finds that with respect to the 2008 calendar year period:

1. WMTB increased its rates by ten percent in the following categories on behalf of its member carriers: (A) dump truck, Kauai and Maui; (B) general commodities, Kauai and Maui; and (C) break bulk and delivery, Kauai, Maui, and Oahu. Conversely, WMTB did not seek across-the-board increases in its rates on behalf of its member carriers in certain other categories, including: (A) dump truck for Hawaii and Oahu; (B) general commodities for Hawaii and Oahu; (C) break bulk and delivery for Hawaii; and (D) passenger carriers statewide.

2. Even with the increase in rates authorized by the commission pursuant to the Zone of Reasonableness, WMTB member carriers that earned gross revenues in excess of \$1 million during 2008, as a whole, are continuing to operate within or above the 90 to 93 percent operating ratio range long recognized as being reasonable by the commission, under the carrier's normalized operational structure.<sup>4</sup>

Specifically: (A) the average operating ratio for the two property carriers that are partial members of WMTB was approximately 101.11 percent; (B) the average operating ratio for the thirty-one other property carriers that are members of WMTB

<sup>4</sup>"The ninety to ninety-three percent operating ratio is based on motor carriers with combined payroll and fringe benefits in the fifty to fifty-five percent range of total operating expenses. Under this approach, a sole proprietor and other "small" carriers will generally have a lower operating ratio, because of no salary expenses and less fringe benefit costs." Decision and Order No. 23862, at 2-3 n.3.

was approximately 95.81 percent, with a majority of these carriers each having operating ratios in excess of 93 percent; and (C) the average operating ratio for the sixteen passenger carriers that are members of WMTB was approximately 101.84 percent, with a majority of these carriers each having operating ratios in excess of 93 percent.

3. At this time, there is no discernible evidence to suggest that the maximum increases in rates implemented by WMTB for certain categories pursuant to the Zone of Reasonableness have resulted in unreasonable levels of operating ratios or excessive profits for its member carriers, as a whole. Instead, the data and information on file with the commission continues to suggest that the motor carrier industry in Hawaii remains highly competitive.

Based on the commission's findings, the commission authorizes the continuation of the Zone of Reasonableness Program governing the commission's rate review and approval process for motor carriers of passengers and property.

### III.

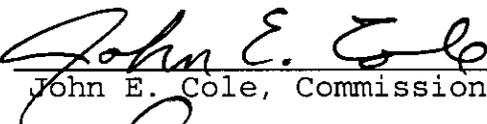
#### Order

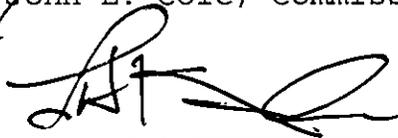
THE COMMISSION AUTHORIZES the continuation of the Zone of Reasonableness Program governing the commission's rate review and approval process for motor carriers of passengers and property, subject to the applicable terms and conditions set forth in Decision and Order No. 23862, filed on December 3, 2007.

DONE at Honolulu, Hawaii SEP 16 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

2007-0159.ps

CERTIFICATE OF SERVICE

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

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