

613
slam

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
WESTERN MOTOR TARIFF BUREAU, INC.)
To Increase Rates and Charges)
on Behalf of Motor Carriers)
Participating in WMTB's Passenger)
Carrier Tariff No. 8-C, Island)
of Oahu.)
WMTB Rate Notice No. 4322-8-C.)
_____)

DOCKET NO. 02-0362

DECISION AND ORDER NO. 19950

Filed Jan. 7, 2003
At 12:00 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

2003 JAN -7 P 4: 04

RECEIVED

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

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
WESTERN MOTOR TARIFF BUREAU, INC.)
To Increase Rates and Charges)
on Behalf of Motor Carriers)
Participating in WMTB's Passenger)
Carrier Tariff No. 8-C, Island)
of Oahu.)
WMTB Rate Notice No. 4322-8-C.)

Docket No. 02-0362
Decision and Order No. 19950

DECISION AND ORDER

I.

On September 20, 2002, WESTERN MOTOR TARIFF BUREAU, INC. (WMTB) filed Rate Notice No. 4322-8-C, on behalf of motor carriers of passengers authorized to operate on the island of Oahu, and that participate in WMTB's Passenger Carrier Tariff No. 8-C. Specifically, WMTB seeks a five per cent across-the-board increase in its rates and charges for these Oahu-based member carriers. WMTB supports its request with a cost study, dated September 20, 2002.

WMTB makes its request in accordance with Hawaii Revised Statutes (HRS) §§ 271-20 and 271-21. Copies of the rate notice and cost study were served on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate). By Order No. 19692, filed on October 3, 2002, the commission: (1) suspended and placed under investigation WMTB's proposed tariff changes; and (2) named the Consumer Advocate as a necessary party.

On October 24, 2002, a scheduling conference was held at the commission's office. Representatives for both parties attended. Thereafter, the commission: (1) on October 28, 2002, issued Prehearing Order No. 19736; and (2) on October 29, 2002, issued Order No. 19741, granting intervention to Polynesian Cultural Center (PCC), and denying intervention to PC Services, Inc.

By Amended Prehearing Order No. 19736, filed on November 7, 2002, and Order No. 19782, filed on November 19, 2002, the commission incorporated PCC's status as a party intervenor. Subsequently, by Order No. 19860, filed on December 6, 2002, the commission approved PCC's request to withdraw as an intervenor.

Meanwhile, on November 18 and December 11, 2002, WMTB submitted its responses to the Consumer Advocate's initial and supplemental information requests, respectively. On December 19, 2002, the Consumer Advocate filed its written testimony. Based on its review, the Consumer Advocate "does not oppose the requested five per cent rate increase[.]"

By letter dated December 20, 2002, WMTB waived the: (1) filing of additional evidence and testimony; and (2) evidentiary hearing. Instead, WMTB chose to submit its "case based on what has been presented thus far[,]" as follows:

The Bureau feels that we can add nothing to this case by further testimony. We would like to waive the evidentiary hearings. We are willing to submit the case based on what has been presented thus far.

Further hearings would cause a lot of work for everyone involved and would not produce anything further for the record.

Consequently, by this decision and order, the commission will: (1) approve WMTB's waiver; and (2) address the merits of WMTB's rate notice.

II.

As set forth in Amended Prehearing Order No. 19736, the underlying issue is:

Whether WMTB has met its burden of proof of establishing the lawfulness of the tariff changes sought in the subject rate notice, i.e., whether the proposed increases in rates and charges are just and reasonable, are not unjustly discriminatory, and do not give or cause any undue or unreasonable preference or advantage?

III.

A.

WMTB utilizes the 2001 revenues and expenses of three sample/member carriers in its cost study: (1) Polynesian Adventure Tours, Inc.; (2) PHT, Inc., dba Polynesian Hospitality; and (3) Robert's Tours and Transportation, Inc. WMTB states that this representative sample "captures a significant amount of the WMTB industry revenues, namely 49.96 per cent, and is a representative sample on which to base the revenue needs of the WMTB Oahu regulated passenger carrier industry."

The study projects that Oahu-based passenger carriers will realize an operating ratio of 105.77 per cent in the test year with no rate increase, and an operating ratio of 100.93 per cent with the proposed five per cent rate increase.

B.

The burden of proof is on WMTB to prove the justness and reasonableness of its proposed increases in rates and charges. See HRS § 271-20; see also HRS § 91-10(5).

Upon review, the commission finds that, among other things, WMTB's cost study fails to:

1. Indicate whether the sample carriers' results of operations were normalized to eliminate the effects of extraordinary events such as the aftermath of September 11, 2001.
2. Explain why the sample carriers' operating ratios are well above 100 per cent, and why these carriers are unable to operate as profitably as Travel Plaza Transportation, LLC.
3. Explain how the operating expenses were allocated between each sample carrier's regulated and non-regulated operations.
4. Explain how administrative overhead expenses of:
(A) \$88,732 were allocated to Polynesian Adventure Tours, Inc.; (B) \$876,000 were allocated to Polynesian Hospitality; and (C) \$2,235,919 were allocated to Robert's Tours and Transportation, Inc.

In addition, the sample carriers do not capture the majority of the at-issue revenues for 2001. In particular, the carrier sample does not include Travel Plaza Transportation, LLC, which reported passenger revenues in excess of \$11 million in 2001.¹

Based on the foregoing reasons, the commission finds that, under the circumstances, WMTB has not met its burden of establishing the lawfulness of the increases in rates and charges proposed by its rate notice. Accordingly, WMTB's Rate Notice No. 4322-8-C is denied.

¹The commission notes that the inclusion of Travel Plaza Transportation, LLC's revenues would increase the total at-issue revenues to approximately 72.21 per cent.

IV.

THE COMMISSION ORDERS:

1. WMTB's waiver of the evidentiary hearing and the filing of additional evidence and testimony, filed on December 20, 2002, is approved.

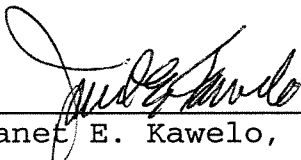
2. WMTB's Rate Notice No. 4322-8-C, filed on September 20, 2002, seeking a five per cent across-the-board increase in its rates and charges for its Oahu-based member carriers that participate in WMTB's Passenger Carrier Tariff No. 8-C, is denied.

3. This docket is closed.


DONE at Honolulu, Hawaii this 7th day of January, 2003.

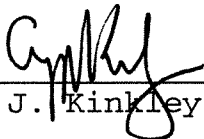
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

By 
Gregg J. Kinkley, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19950 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
Honolulu, HI 96809

WESTERN MOTOR TARIFF BUREAU, INC.
P. O. Box 30268
Honolulu, HI 96820



Karen Higashi

DATED: January 7, 2003