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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
 BREWER ENVIRONMENTAL INDUSTRIES, )  
 LLC, dba HT&T COMPANY )

DOCKET NO. 02-0376

For Authority to Transfer )  
 Certificate No. 5016-C to )  
 TRI-K Investments, LLC, dba )  
 HT&T Hauling & Repair Services. )

In the Matter of the Application of )  
 )  
 BREWER ENVIRONMENTAL INDUSTRIES, )  
 INC., dba HT&T COMPANY )

DOCKET NO. 02-0387

For Authority to Transfer )  
 Certificate No. 5016-C to Brewer )  
 Environmental Industries, LLC, )  
 dba HT&T Company. )

(CONSOLIDATED)

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

2003 JAN 14 P 4: 06

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DECISION AND ORDER NO. 19957

Filed Jan. 14, 2003  
At 10:30 o'clock A .M.

Karen Higashi  
Chief Clerk of the Commission

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

K. Higashi

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DECISION AND ORDER

I.

On October 16, 2002, BREWER ENVIRONMENTAL INDUSTRIES, LLC, dba HT&T COMPANY (BEI, LLC), filed an application, in Docket No. 02-0376,<sup>1</sup> seeking commission approval to transfer certificate of public convenience and necessity number 5016-C (Certificate No. 5016-C) and its properties necessary or useful in the performance of transportation services for the public (motor carrier properties) to TRI-K INVESTMENTS, LLC, dba HT&T HAULING & REPAIR SERVICES (TRI-K), pursuant to Hawaii Revised Statutes (HRS) § 271-18. By letter dated October 17, 2002, the commission

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<sup>1</sup>On October 28, 2002, the Consumer Advocate informed the commission that it will not be participating in this docket.

notified BEI, LLC and TRI-K (1) that our records indicated that BREWER ENVIRONMENTAL INDUSTRIES, INC., dba HT&T COMPANY (BEI, INC.), is the holder of Certificate No. 5016-C,<sup>2</sup> not BEI, LLC, and (2) that there could be no transfer of Certificate No. 5016-C from BEI, LLC to TRI-K unless BEI, INC. first obtained commission approval to transfer Certificate No. 5016-C to BEI, LLC. Accordingly, BEI, INC.<sup>3</sup> filed an application on October 30, 2002, in Docket No. 02-0387,<sup>4</sup> to transfer Certificate No. 5016-C to BEI, LLC, pursuant to Hawaii Revised Statutes (HRS) § 271-18.<sup>5</sup> No persons intervened in any of these dockets.

## II.

Hawaii Administrative Rules § 6-61-39 provides that the commission, upon its own initiative, may consolidate two or more proceedings that involve related questions of fact or law if it finds that the consolidation will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.

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<sup>2</sup>Certificate No. 5016-C authorizes BEI, INC. to transport property over irregular routes on the island of Hawaii in the general commodities and dump truck classifications.

<sup>3</sup>The commission notes that BEI, INC. changed its name to Brewer Environmental Industries Holdings, Inc. on June 13, 1997.

<sup>4</sup>On November 4, 2002, the Consumer Advocate informed the commission that it will not be participating in this docket.

<sup>5</sup>BEI, INC. filed an additional application on October 30, 2002 (and amended it on December 6 and 11, 2002), in Docket No. 02-0388, for temporary approval to allow TRI-K to operate BEI, INC.'s motor carrier properties under Certificate No. 5016-C, pending the disposition of Docket Nos. 02-0376 and 02-0387. The commission granted temporary approval on December 12, 2002, by Decision and Order No. 19873.

Upon review of the record, we find that Docket Nos. 02-0376 and 02-0387 involve related questions of fact and law. We also find that the consolidation of these proceedings will be conducive to the proper dispatch of the commission's business and the ends of justice, and will not unduly delay these proceedings.

Based on the foregoing, we conclude that Docket Nos. 02-0376 and 02-0387 should be consolidated.

### III.

Upon review of the applications filed in Docket Nos. 02-0387 and 02-0376 and consideration of factors set forth in HRS § 271-18(d), the commission finds that the proposed transfer of Certificate No. 5016-C from BEI, INC. to BEI, LLC, and the subsequent transfer of Certificate No. 5016-C and motor carrier properties from BEI, LLC to TRI-K are just and reasonable and will be consistent with the public interest. The commission also finds that TRI-K is fit, willing, and able to perform the services presently performed by BEI, LLC. Accordingly, the commission concludes that the proposed transfers, described above, are in accordance with HRS § 271-18, and should, therefore, be approved.

### IV.

#### THE COMMISSION ORDERS:

1. Docket Nos. 02-0376 and 02-0387 are consolidated.
2. The applications in Docket Nos. 02-0387 and 02-0376 for the transfer of Certificate No. 5016-C from BEI, INC. to BEI, LLC, and the subsequent transfer of Certificate No. 5016-C

and motor carrier properties from BEI, LLC to TRI-K are approved. TRI-K is granted permanent authority to operate as a common carrier of property by motor vehicle over irregular routes on the island of Hawaii in the general commodities and dump truck classifications.

3. BEI, INC. shall surrender Certificate No. 5016-C and an amended certificate reflecting the authority granted by this decision and order shall be issued to TRI-K.

4. TRI-K shall comply with all of the commission's requirements for common carriers by motor vehicle including, but not limited to, filing a lawful tariff, filing the appropriate insurance documents, paying a fee of \$20 for motor carrier gross revenues, registering and marking the appropriate motor vehicles, and complying with the safety requirements of the Motor Vehicle Safety Office, Department of Transportation, State of Hawaii.

5. BEI, INC. shall file an annual financial report for its operations covering the period from January 1, 2002, to December 12, 2002. BEI, INC. shall also pay the appropriate motor carrier gross revenue fee for the period January 1, 2002, to December 12, 2002.<sup>6</sup>

6. BEI, INC. and TRI-K shall comply with the requirements set forth in this decision and order within 120 days after service of this decision and order. Failure to comply within

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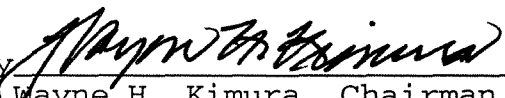
<sup>6</sup>December 12, 2002 is the filing date of Decision and Order No. 19873, in Docket No. 02-0388, granting temporary approval to TRI-K to operate BEI, INC.'s motor carrier properties under Certificate No. 5016-C. Decision and Order No. 19873, ordering paragraph 4, requested that BEI, INC. file an annual financial report and pay the appropriate fees for the period January 1, 2002 to December 12, 2002.

the time specified constitutes cause for the commission to void this decision and order. Compliance with the requirements set forth in this decision and order shall render the temporary authority granted by the commission in Decision and Order No. 19873 moot.

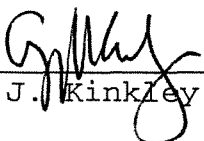
7. TRI-K shall not commence operations under this decision and order until it has received written confirmation from the commission that all requirements have been met.

DONE at Honolulu, Hawaii this 14th day of January, 2003.

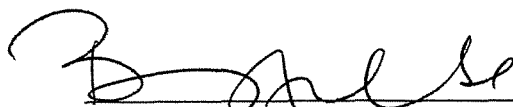
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Wayne H. Kimura, Chairman

By   
Janet E. Kawelo, Commissioner

By   
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:

  
Benedyne S. Stone  
Commission Counsel

02-0376cons.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19957 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  
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BREWER ENVIRONMENTAL INDUSTRIES, LLC, dba  
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Hilo, HI 96720

BREWER ENVIRONMENTAL INDUSTRIES, INC., dba  
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Hilo, HI 96720

TRI-K INVESTMENTS, LLC, dba  
HT&T HAULING & REPAIR SERVICES  
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Hilo, HI 96720

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Honolulu, HI 96813

  
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Karen Higashi

DATED: January 14, 2003