BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of
BIG ISLAND TOPSOIL LLC

For Extension of Motor Carrier Certificate.

DOCKET NO. 02-0094

ORDER NO. 20276

Filed June 30, 2003
At 10:00 A.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

BIG ISLAND TOPSOIL LLC )

Docket No. 02-0094)

For Extension of Motor Carrier )

Order No. 20276)

Certificate.

ORDER

I.

By Order No. 20051, filed on March 3, 2003 (Order No. 20051), the commission voided Decision and Order No. 19514, filed on August 14, 2002 (Decision and Order No. 19514). Decision and Order No. 19514 granted the application of BIG ISLAND TOPSOIL LLC (Movant), to extend its certificate of public convenience and necessity number 5129-C (CPCN) to include the general commodities (excluding break bulk and delivery) and dump truck classifications on the islands of Kauai and Maui.¹ By letter filed on May 9, 2003,² Movant requested that the commission reconsider the voiding of Decision and Order No. 19514. The commission will treat Movant’s letter as a motion for reconsideration of Order No. 20051.

¹At the time of its application, Movant was authorized to operate as a property carrier on the islands of Oahu and Hawaii.

²Movant’s letter was dated March 11, 2003 and included copies of its CPCN and information to supplement its application.
II.

The filing of Movant's motion for reconsideration is governed by Hawaii Revised Statutes (HRS) § 271-32(b) and Hawaii Administrative Rules (HAR) § 6-61-137. These sections require, among other things, that a motion seeking any change in a commission's decision, order, or requirement, be filed within 10 days after the decision or order is served upon the party.

Order No. 20051 was properly served upon Movant, by United States mail, on March 3, 2003. As a result, the last permissible day for timely filing Movant's motion for reconsideration was March 24, 2003. Movant's motion for reconsideration was filed on May 9, 2003. Accordingly, we find Movant's motion for reconsideration to be untimely. Thus, since Movant failed to timely file its motion for reconsideration pursuant to HRS § 271-32(b) and HAR § 6-61-137, we conclude that Movant's motion for reconsideration should be dismissed as moot.

III.

THE COMMISSION ORDERS that Movant's motion for reconsideration, filed on May 9, 2003, is dismissed as moot.

\[\text{See HAR §§ 6-61-21 and 6-61-22.}\]
DONE at Honolulu, Hawaii this 30th day of June, 2003.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso, Chairman

By Wayne H. Kimura, Commissioner

By Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Benedyke S. Stone
Commission Counsel
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20276 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
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Honolulu, HI 96809

BIG ISLAND TOPSOIL LLC
P. O. Box 1999
Kamuela, HI 96743

BILL BATHE
c/o PACIFIC ACADEMY & ACCOUNTING SERVICES, INC.
87-979 C Farrington Highway
Waianae, HI 96792

DATED: June 30, 2003

Karen Higashi