

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
THE PINT SIZE CORPORATION, dba )  
D C EXPRESS )  
For a Temporary Extension of )  
Motor Carrier Permit. )

DOCKET NO. 03-0207

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

DECISION AND ORDER NO. 20371

Filed August 8, 2003  
At 12:00 o'clock P .M.

Karen Higashi  
Chief Clerk of the Commission

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 )  
THE PINT SIZE CORPORATION, dba )  
D C EXPRESS ) Docket No. 03-0207  
For a Temporary Extension of ) Decision and Order No. 20371  
Motor Carrier Permit. )  
\_\_\_\_\_ )

DECISION AND ORDER

I.

By an application filed on July 22, 2003, and amended on July 28, 2003, THE PINT SIZE CORPORATION, dba D C EXPRESS ("Applicant"), seeks commission approval to temporarily extend its authority under Permit No. 651-P<sup>1</sup> to include the transportation of specific commodities (refrigerated products) over irregular routes on the island of Oahu, pursuant to a contract with ABC Stores. The application is made pursuant to Hawaii Revised Statutes ("HRS") § 271-16.

Applicant served copies of the application on the Hawaii Transportation Association, which consists of carriers that may be affected by Applicant's proposed service, and on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs

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<sup>1</sup>Applicant's current authority under Permit No. 651-P authorizes Applicant to operate as a contract carrier of property in the specific commodities (refrigerated products) classification over irregular routes on the islands of Kauai, Oahu, Maui, and Hawaii, under contract with Baskin Robbins USA, Co.

("Consumer Advocate"). The Consumer Advocate did not participate in this proceeding, and no persons moved to intervene in this docket.

## II.

For a grant of temporary operating authority pursuant to HRS § 271-16, an applicant must satisfy two conditions. First, an applicant must establish that there is "an immediate and urgent need" for the proposed service. Second, an applicant must also demonstrate "[an] absence of carrier service capable of meeting the need between points or in the territory where the temporary service will be instituted." See In re Robert's Tours & Transportation, Inc., Decision and Order No. 15274, Docket No. 96-0437 (December 23, 1996). In addition, pursuant to HRS § 271-16, the commission may, at its discretion, grant temporary authority for service by a common or contract carrier, without hearings or other proceedings.

Upon review, we find that Applicant meets the criteria for temporary authority set forth in HRS § 271-16. First, the proposed service is immediately and urgently needed. Applicant proposes to deliver chilled and frozen products to ABC Stores locations on the island of Oahu. The products to be delivered have been purchased by ABC Stores from Fleming Foods. Prior to April 6, 2003, Fleming Foods hired and paid Hawaii Logistics Services to deliver its products to ABC Stores. In April 2003, Fleming Foods advised ABC Stores on very short notice that it was terminating its arrangement with Hawaii Logistics Services and that

ABC stores had to find another way to have the products delivered. ABC Stores represents in its letter of support that it neither has the storage facilities nor the vehicles capable of delivering the chilled and frozen products, and, thus, urgently needs Applicant's services. Second, Applicant represents that it is uniquely qualified to provide the proposed service. Applicant represents (1) that it has the staff already trained to handle temperature sensitive products safely, (2) that it has a temperature controlled warehouse to receive the product in bulk from Fleming Foods and then sort according to individual store orders, and (3) that it has refrigerated trucks that have been making deliveries for over fifteen years with a consistent reliable record in safeguarding the quality of temperature controlled products. We, thus, conclude, based upon a review of the record, that Applicant's request for temporary operating authority should be granted without hearings or other proceedings in this docket.

Pursuant to HRS § 271-16, the commission may grant temporary authority to an applicant for no more than 120 days. We conclude, therefore, that since Applicant satisfied the requirements for a grant of temporary authority pursuant to HRS § 271-16, it should be granted temporary authority for a period of 120 days.

### III.

THE COMMISSION ORDERS that Applicant is granted temporary authority to operate as a contract carrier in the specific commodities (refrigerated products) classification over irregular

routes on the island of Oahu pursuant to a contract with ABC Stores. The temporary authority shall be valid for no more than 120 days from the date of this decision and order, in accordance with HRS § 271-16. However, the temporary authority may be terminated for good cause, including, but not limited to, Applicant's failure to comply with the motor carrier laws or the commission's rules or orders.

DONE at Honolulu, Hawaii this 8th day of August, 2003.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By (EXCUSED)  
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
for Benedyne S. Stone  
Commission Counsel

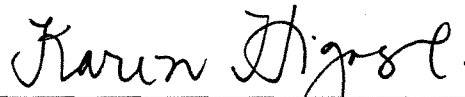
03-0207.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20371 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

THE PINT SIZE CORPORATION, dba  
D C EXPRESS  
c/o CLAYTON KIM, PRESIDENT  
99-1287 Waiua Place  
Aiea, HI 96701-3277

  
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Karen Higashi

DATED: August 8, 2003