BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

In the Matter of the Application of)

ELSWOOD KALEIPONI NOEAU, dba LEOLANI HAWAIIAN SCENIC TOURS & TRAVEL CO.

For a Motor Carrier Certificate or Permit.

DOCKET NO. 03-0179

DECISION AND ORDER NO. 20570

Filed October 9, 2003

At 17 o'clock p.M.

Worles K. Negron

For Chief Clerk of the Commission

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DECISION AND ORDER

I.

On June 20, 2003, ELSWOOD KALEIPONI NOEAU, dba LEOLANI HAWAIIAN SCENIC TOURS & TRAVEL CO. ("Applicant") filed an application requesting a certificate of public convenience and necessity to operate as a common carrier of passengers by motor vehicle over irregular routes on the island of Hawaii, excluding Waipio Valley, in the 8-to-25 passenger classification, limited to utilizing motor vehicles with a maximum manufacturer's seating capacity of 15 passengers. The application is made pursuant to Hawaii Revised Statutes ("HRS") § 271-12.

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 ("Consumer Advocate"). The Consumer Advocate did not participate in this proceeding.

On August 27, 2003, Jack's Tours, Inc. ("Jack's Tours") filed a motion to enlarge the time for filing a motion to intervene ("Motion to Enlarge Time") in the instant proceeding. On September 25, 2003, the commission denied Jack's Tours' Motion to Enlarge Time, by Order No. 20467.

II.

Based upon our review of the record, we find that Applicant is fit, willing, and able to properly perform the proposed service, and to conform to HRS chapter 271 and the requirements and rules of the commission. We also find that the proposed service is required by the present and future public convenience and necessity. Accordingly, we conclude that Applicant's request for operating authority, as set forth in the application, should be granted.

III.

THE COMMISSION ORDERS:

- 1. Applicant is granted a certificate to operate as a common carrier of passengers by motor vehicle over irregular routes on the island of Hawaii, excluding Waipio Valley, in the 8-to-25 passenger classification, limited to utilizing motor vehicles with a maximum manufacturer's seating capacity of 15 passengers.
- 2. Applicant shall comply with all of the commission's requirements for common carriers by motor vehicle including, but not limited to, filing a lawful tariff, paying a fee of \$20 for

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motor carrier gross revenues, and filing the appropriate insurance documents.

- 3. Applicant shall comply with the foregoing requirements within 120 days after service of this decision and Failure to comply within the time specified constitutes order. cause for this commission to void this decision and order.
- Applicant 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 9th day of October, 2003.

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Kawelo, Commissioner

PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

Caliboso, Chairman

APPROVED AS TO FORM:

Benedyne Commission Counsel

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing <u>Decision and Order No. 20570</u> 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

ELSWOOD KALEIPONI NOEAU, dba LEOLANI HAWAIIAN SCENIC TOURS & TRAVEL CO. 33 Baker Avenue Hilo, HI 96720

SANDRA-ANN Y.H. WONG, ESQ. 1050 Bishop Street, #514 Honolulu, HI 96813

Karen Higashi

DATED: October 9, 2003