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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of the-----)
PUBLIC UTILITIES COMMISSION)
Instituting a Proceeding to)
Investigate the Reasonableness)
of Establishing Rate Flexibility))
for Motor Carriers of Passengers))
and Property.)
_____)

DOCKET NO. 03-0245

ORDER NO. 20592

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

Filed Oct. 23, 2003
At 10:00 o'clock A .M.

Karen Higuel.
Chief Clerk of the Commission

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Docket No. 03-0245
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ORDER

I.

Background

The Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), Hawaii State Certified Common Carriers Association, Inc. ("HSCCCA"), Hawaii Transportation Association ("HTA"), and Western Motor Tariff Bureau, Inc. ("WMTB") (collectively, the "parties") are the commission-named parties to this docket. No persons moved to intervene or participate. Two WMTB member carriers, PHT, Inc., dba Polynesian Hospitality, and Big Isle Moving & Draying, Inc., submitted written comments supporting the commission's proposed zone of reasonableness.¹

¹See PHT, Inc.'s letter, filed on September 18, 2003; and Big Isle Moving & Draying, Inc.'s letter, filed on September 26, 2003.

The commission discusses two matters herein.

II.

WMTB

On September 24, 2003, the commission instructed WMTB to file a written statement explaining in detail: (1) the general anti-trust claim it raises in its letter, dated September 15, 2003; and (2) its reasons for objecting to HSCCCA's and HTA's participation as parties to this proceeding. On October 8, 2003, WMTB withdrew its September 15th letter and, instead, "support[s] the docket."² The commission approves WMTB's withdrawal.

III.

Proposed Zone of Reasonableness

The commission sets forth a proposal to establish a zone of reasonableness ("zone"), applicable to motor carriers of passengers and property (all classifications). The commission is seeking review and comment from the parties and interested persons on the proposed zone components and mechanism:

1. For purposes of discussion, the commission is considering a zone with points within the range of plus or minus ten (10) per cent from a motor carrier's base rate.
2. The zone will be effective during a one-year pilot period, from January 1, 2004 to December 31, 2004.

²See WMTB's letter, filed on October 8, 2003.

3. During the pilot period, a motor carrier's proposed increases or decreases to its base rate, shall be within the zone or range authorized by the commission.³
4. A motor carrier's proposed rate change that falls within the zone, is presumptively valid, i.e., just and reasonable.
5. A motor carrier's proposed rate change remains subject to the applicable tariff filing requirements under Hawaii Revised Statutes chapter 271 and Hawaii Administrative Rules chapters 6-62 and 6-63. These requirements include the thirty (30)-day advance notice provision, or its short notice alternative. The tariff suspension and denial provisions also apply.
6. During the pilot period, the commission envisions that unforeseen issues may arise, based on a requesting carrier's tariff or circumstances.

The commission reserves the right, at any time, to adjust or change the zone or its applicable requirements, in order to "fine tune" the zone concept.

7. Upon the completion of the pilot period, the zone will be terminated unless otherwise continued or modified by decision of the commission.

The parties and any interested persons shall review and comment on the proposed zone. The written comments shall include a discussion, recommendations, and basis for recommendations on:

1. Whether the commenter supports or opposes the zone concept for motor carrier ratemaking;
2. What a reasonable range of the zone should be within a plus or minus ten (10) per cent range from a carrier's base rate;

³A motor carrier's base rate is the applicable tariff rate on file with the commission on January 1, 2004. For a new motor carrier certificated by the commission after January 1, 2004, that carrier's base rate is its initial, tariff rate on file with the commission.

3. Any alternative range the commenter believes is reasonable; and
4. Whether a motor carrier's increases or decreases in its fuel surcharge rate should be included or excluded from the zone, i.e., whether a carrier's fuel surcharge rate should be rolled into the carrier's zone.

Any commenter that opposes the zone concept need not comment on the other issues identified above (issues 2 to 4).

IV.

Additional Review and Evaluation

The commission has long recognized as reasonable a motor carrier's operating ratio of ninety (90) to ninety-three (93) per cent for ratemaking purposes, based on the carrier's "normalized" operations. The commission will review the data and information collected during the pilot period to evaluate the feasibility of extending the zone's duration to the year 2005 and beyond. The commission is optimistic that the rate increases implemented by motor carriers within the zone will not result in the carrier's operating ratio decreasing below the commission's ninety (90) per cent acceptable amount.

V.

Orders

THE COMMISSION ORDERS:


1. WMTB's withdrawal of its letter, dated September 15, 2003, is approved.


2. By November 12, 2003, the parties shall file their respective position statements on the proposed zone. If a party chooses not to comment, the party shall file a statement of no comment or no objection by the same date. The parties shall serve a copy of their respective statements (with two copies upon the Consumer Advocate) upon the other parties, with proof of such service attached thereto.

3. By November 12, 2003, interested non-parties may also submit their comments to the commission.


DONE at Honolulu, Hawaii this 23rd day of October, 2003.

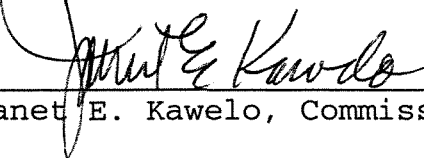
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

By 
Janet E. Kawelo, Commissioner

03-0245.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20592 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

HAWAII STATE CERTIFIED COMMON CARRIERS ASSOCIATION, INC.
P. O. Box 88692
Honolulu, HI 96830-8692

HAWAII TRANSPORTATION ASSOCIATION
P. O. Box 30166
Honolulu, HI 96820

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



Karen Higashi

DATED: October 23, 2003