

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
) FRANK D. DUARTE, dba)
) DUARTE'S EQUIPMENT RENTAL)
))
) For a Motor Carrier Certificate)
) Or Permit.)
)
 _____)

DOCKET NO. 03-0085

ORDER NO. 20795

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

2004 FEB -6 A 8:36

RECEIVED

Filed Feb. 5, 2004
At 11:00 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.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
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FRANK D. DUARTE, dba)
DUARTE'S EQUIPMENT RENTAL) Docket No. 03-0085
)
For a Motor Carrier Certificate) Order No. 20795
Or Permit.)
_____)

ORDER

I.

Motion for Reconsideration

By Order No. 20735, filed on January 6, 2004, the commission voided Decision and Order No. 20307¹ which approved the application of FRANK D. DUARTE, dba DUARTE'S EQUIPMENT RENTAL ("Movant") for a certificate of public convenience and necessity ("CPCN") to operate as a common carrier of property by motor vehicle over irregular routes on the island of Hawaii in the dump truck and specific commodities classifications.²

On January 15, 2004, Movant filed a request for reconsideration of Order No. 20735 ("Motion for Reconsideration"). Movant asserts that he is now able to produce all of the required documents requested by the commission.

¹Decision and Order No. 20307 was filed on July 8, 2003 in this docket.

²Decision and Order No. 20307 was voided for Movant's failure to provide the commission with all the documents required to operate as a common carrier.

II.

Discussion

The standard for granting a motion for reconsideration is set forth in Hawaii Administrative Rules § 6-61-137, which provides, in relevant part, that a motion for reconsideration of a decision or order must set forth the reasons which the movant considers the decision or order to be unreasonable. Given Movant's changing circumstances and his present ability to provide the required insurance³ and other documents to the commission, it can be expected that Movant will now be able to satisfy all of the commission's requirements for a common carrier. Accordingly, we find and conclude that Movant's Motion for Reconsideration of Order No. 20735 should be granted and that Order No. 20735 should be vacated.

III.

Order

THE COMMISSION ORDERS:

1. Movant's Motion for Reconsideration of Order No. 20735, filed on January 15, 2004, is granted.
2. Order No. 20735, filed on January 6, 2004, is vacated.
3. Decision and Order No. 20307, filed on July 8, 2003 is reinstated.


³Movant has had a pending driving charge dismissed, and as such, is now able to obtain the required insurance for his vehicle.

4. Movant shall submit all required documents to the commission within 60 days of the date of this order.

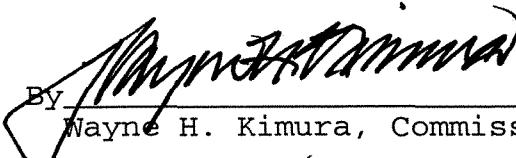
5. In all other respects, Decision and Order No. 20307 remains unchanged.

DONE at Honolulu, Hawaii this 5th day of February, 2004.

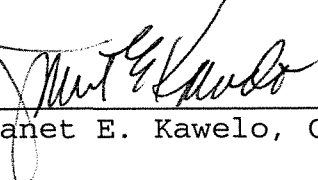
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 

Carlito P. Caliboso, Chairman

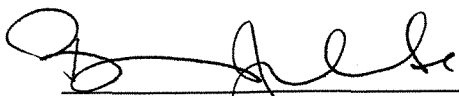
By 

Wayne H. Kimura, Commissioner

By 

Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:



Benedyne S. Stone
Commission Counsel

03-0085.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20795 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

FRANK D. DUARTE,
dba DUARTE'S EQUIPMENT RENTAL
P. O. Box 5290
Hilo, HI 96720



Karen Higashi

DATED: February 5, 2004