

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PARADISE CHRISTIAN TOURS, INC.,)
dba A'A TOURS)
For a Common Carrier Certificate)
_____)

DOCKET NO. 04-0161

INTERIM DECISION AND ORDER NO. 21429

Filed Oct. 26, 2004
At 3:30 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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Commission, State of Hawaii.

K. Higashi.

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OF THE STATE OF HAWAII

In the Matter of the Application of)
PARADISE CHRISTIAN TOURS, INC.,) Docket No. 04-0161
dba A'A TOURS)
Interim Decision and Order No. 21429
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INTERIM DECISION AND ORDER

I.

Request for Temporary Common Carrier Authority

PARADISE CHRISTIAN TOURS, INC., dba A'A TOURS ("Applicant"), is a contract 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. Applicant provides its contract carrier services pursuant to a contract with Polynesian Adventure Tours, Inc. On July 6, 2004, Applicant filed an application seeking commission approval to change its existing authority as a contract carrier under Permit No. 5821-P to 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 1-to-7 and 8-to-25 passenger classifications ("Application").

On July 7, 2004, the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs, filed a statement of

position stating that it would not participate in the instant proceeding. On August 9, 2004, Jack's Tours, Inc. ("Movant") filed a motion to intervene in the instant proceeding ("Motion to Intervene"). By Order No. 21409, filed on October 11, 2004, the commission denied Movant's Motion to Intervene. On October 14, 2004, Applicant filed a letter requesting that the commission grant it temporary operating authority to provide the common carrier services proposed in its Application.

II.

Findings and Conclusions

For a grant of temporary operating authority pursuant to Hawaii Revised Statutes ("HRS") § 271-16, an applicant must satisfy two (2) 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.

In support of the second condition of HRS § 271-16, Applicant represents that it has developed specialty tours that no other common carriers of passengers are providing on the island of Hawaii.

Applicant asserts that its "Christian Retreat Tours" are different from other carriers providing passenger transportation services on the island of Hawaii because it attracts a lower-paying transportation market and seeks unique areas of solitude for spiritual reflection for its clients. Applicant also states that it is responsible for the conception, introduction, and marketing of a unique tour called the "The Lava Walk Experience" (See letters of support from NCL America, Toshie Nakabayashi, Meridian H.R.T., Inc., Agenda, Inc., Hawaiian Network, Inc., Outrigger Hotels-Resorts, R&C Tours Co., Ltd., and H.I.S Hawaii). In support of the first condition of HRS § 271-16, Applicant represents (1) that its four motor vehicles are sitting idle, (2) that it is losing approximately one thousand dollars (\$1,000.00) plus a day, (3) that its employees do not presently have a job, and (4) that it cannot wait another four to six months to obtain the requisite authority to serve its existing clients.

Upon review, we find that Applicant has satisfied the two (2) conditions for temporary authority set forth in HRS § 271-16. First, there is an immediate and urgent need for Applicant's common carrier passenger services. No other motor carrier is offering Applicant's unique mix of low-cost tours emphasizing spiritual reflection, which immediate and urgent need is evidenced by Applicant's eight (8) letters of support, and Applicant's representations, noted above. Second, there is no other carrier, other than Applicant, capable of providing these tours as developed by Applicant. We, thus, conclude 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 one hundred and twenty (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 one hundred twenty (120) days.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted temporary authority to operate as a common carrier of passengers by motor vehicle over irregular routes on the island of Hawaii, excluding Waipio Valley, in the 1-to-7 and 8-to-25 passenger classifications. The temporary authority shall be valid for no more than one hundred twenty (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.

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.


3. Applicant shall comply with the foregoing requirements within fifteen (15) days after service of this

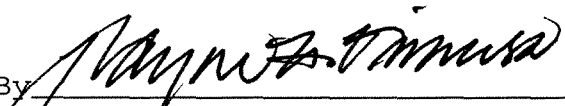
decision and order. Failure to comply within the time specified constitutes cause for this commission to void this decision and order.

4. Applicant shall not commence operations as a common carrier until it has received written confirmation from the commission that all requirements have been met.

DONE at Honolulu, Hawaii OCT 26 2004.

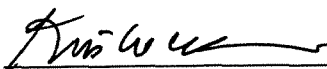
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

04-0161.rpr

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Interim Decision and Order No. 21429 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DIVISION OF CONSUMER ADVOCACY
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Karen Higashi

DATED: OCT 26 2004