

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Request of )  
 )  
TRANS HAWAIIAN-KAUAI, INC. )  
 )  
To Place Operating Authority on )  
Inactive Status. )  
\_\_\_\_\_ )

DOCKET NO. 01-0173

ORDER NO. 21733

Filed April 14, 2005  
At 11 o'clock A.M.

Karen Higashi  
Chief Clerk of the Commission

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DIV. OF CONSUMER ADVOCACY  
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STATE OF HAWAII

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KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.  
K. Higashi

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ORDER

I.

Introduction

On May 21, 2001, TRANS HAWAIIAN-KAUAI, INC. ("THK"), filed a request to place Certificate No. 3534-C on inactive status and notified the commission that its operation would continue through May 31, 2001. Specifically, by letter dated May 22, 2001, the commission, among other things, requested THK to complete and file an annual financial report ("AFR") for the calendar year 2000 and for the period January 1, 2001 through the date of inactive status (aka, 2000, 2001, 2002 and 2003 AFRs). Although the record indicates that THK filed its 2000 AFR, THK failed to file its 2001, 2002, and 2003 AFRs.

On September 23, 2004, the commission issued a notice of intent to dismiss, without prejudice, THK's request to place its operating authority on inactive status, unless a written objection to the proposed dismissal was filed within ten

(10) days.<sup>1</sup> The reason for the proposed dismissal is THK's failure to move forward with the prosecution of the request. On October 19, 2004, THK filed its written objection to the proposed dismissal.

## II.

### Discussion

#### A.

#### THK's Objection

THK, by and through its trustee in bankruptcy ("John Candon" or "Chapter 7 Trustee"), objects to the proposed dismissal in the above-stated docket. THK asserts that it has not moved forward with its request, or filed its annual financial reports and/or paid fees after 2000, due to the filing of its petition for bankruptcy on July 6, 2001. THK, Trans Hawaiian-Hawaii, Inc. ("THH"), Trans Hawaiian-Maui, Inc. ("THM") and Trans Hawaiian-Oahu, Inc. ("THO") (collectively referred to as the "Trans Hawaiian carriers") filed petitions for bankruptcy in Bankruptcy Nos. 01-02713 (THO), 01-02714 (THM), 01-02715 (THK), and 01-02716 (THH). These bankruptcy proceedings have been consolidated with Bankruptcy No. 01-02712 ("Trans Hawaiian Services, Inc.").

THK asserts that the Chapter 7 Trustee is charged with the responsibility of preserving the value of existing assets of

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<sup>1</sup>By letter dated October 8, 2004, the commission approved an enlargement of time in which to file a written objection to the proposed dismissal until October 19, 2004.

Trans Hawaiian carriers, such as their vehicles and Certificate of Public Convenience and Necessity ("CPCN"). THK further states that in order to preserve the status quo with respect to these assets, the Chapter 7 Trustee respectfully requests that the commission not take further action at this time with respect to this docket.

B.

Dismissal Without Prejudice

Upon review, the commission finds THK's written objection to be unconvincing. By failing to file the required AFRs, THK failed to move forward with the prosecution of the request.

Contrary to THK's assertions, the commission believes the status quo with respect to existing assets of the Trans Hawaiian carriers continues to be preserved. No action is being taken to either suspend or revoke THK's CPCN or claim any unpaid fees. Our records indicate that THK continues to be authorized by its CPCN to provide passenger transportation services under Hawaii Revised Statutes ("HRS") chapter 271.

Based on the above, the commission concludes that THK's request to place its operating authority on inactive status should be dismissed, without prejudice.<sup>2</sup>

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<sup>2</sup>The commission further notes that the dismissal of the instant request "without prejudice" means that THK is not precluded from filing a new request to place Certificate No. 3534-C on inactive status, pursuant to HRS § 271-19(b), when it is ready and willing to move forward with such request.

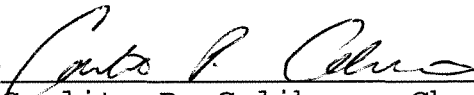
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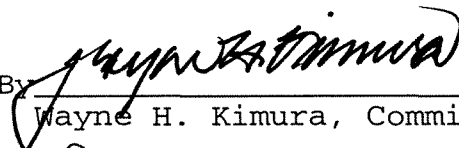
Order

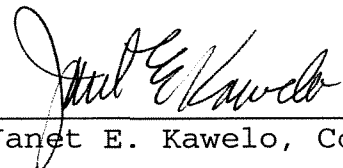
THE COMMISSION ORDERS that THK's request to place its operating authority on inactive status is dismissed, without prejudice.

DONE at Honolulu, Hawaii APR 14 2005.


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:

  
Kevin M. Katsura  
Commission Counsel

01-0173.eh

CERTIFICATE OF SERVICE


I hereby certify that I have this date served a copy of the foregoing Order No. 21733 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  
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Karen Higashi

DATED: APR 14 2005