

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Request of)
)
TRANS HAWAIIAN-HAWAII, INC.)
)
To Place Operating Authority on)
Inactive Status.)
_____)

DOCKET NO. 01-0175

ORDER NO. 21735

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

Karen Higashi.
Chief Clerk of the Commission

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

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ATTEST: A True Copy
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-HAWAII, INC. ("THH"), filed a request to place Certificate No. 5673-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 THH 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 THH filed its 2000 AFR, THH failed to file its 2001, 2002, and 2003 AFRs.

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

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

II.

Discussion

A.

THH's Objection

THH, by and through its trustee in bankruptcy ("John Candon" or "Chapter 7 Trustee"), objects to the proposed dismissal in the above-stated docket. THH 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. THH, Trans Hawaiian-Maui, Inc. ("THM"), Trans Hawaiian-Kauai, Inc. ("THK") 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.").

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

¹By 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.

assets of Trans Hawaiian carriers, such as their vehicles and Certificate of Public Convenience and Necessity ("CPCN"). THH 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 THH's written objection to be unconvincing. By failing to file the required AFRs, THH failed to move forward with the prosecution of the request.

Contrary to THH'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 THH's CPCN or claim any unpaid fees. Our records indicate that THH 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 THH's request to place its operating authority on inactive status should be dismissed, without prejudice.²

²The commission further notes that the dismissal of the instant request "without prejudice" means that THH is not precluded from filing a new request to place Certificate No. 5673-C on inactive status, pursuant to HRS § 271-19(b), when it is ready and willing to move forward with such request.

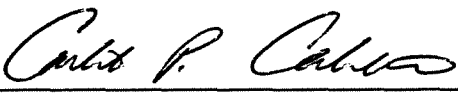
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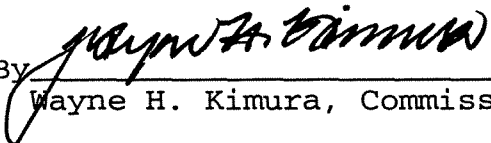
Order

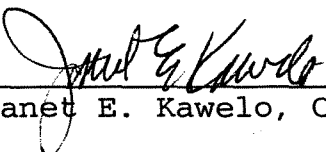
THE COMMISSION ORDERS that THH's request to place its operating authority on inactive status is dismissed, without prejudice.

DONE at Honolulu, Hawaii APR 14 2005.

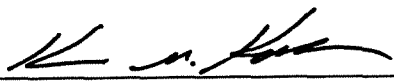
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel

01-0175.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21735 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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Karen Higashi

DATED: APR 14 2005