BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

In the Matter of the Application of)

4U2C, INC., dba HAWAII NATURE EXPLORERS

DOCKET NO. 04-0168

For A Motor Carrier Certificate Or Permit.

ORDER NO. 21779

Filed April 27, 2005
At 10:00 o'clock A.M.

Chief Clerk of the Commission

ATTEST: A True Copy KAREN HIGASHI Chief Clerk, Public Utilities Commission, State of Hawaii.

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ORDER

By this Order, the commission grants Jack's Tours, Inc.'s ("Jack's" or "Movant") request to present oral arguments on the hearings officer's findings of fact, conclusions of law and recommended decision and order ("Recommended Decision"), filed on March 30, 2005.

I.

Introduction

On July 8, 2004, 4U2C, INC., dba HAWAII NATURE EXPLORERS ("Applicant"), filed an application for a certificate of public convenience and necessity to transport passengers by motor vehicle in the 8-to-25 passenger classification, limited to utilizing motor vehicles with a maximum manufacturer's seating capacity of fifteen (15) passengers, on the island of Hawaii, excluding Waipio Valley. On August 4, 2004, Movant filed a motion to intervene, with a request for a hearing on the motion, pursuant to

Hawaii Administrative Rules ("HAR") § 6-61-55 ("Motion to Intervene"). On August 23, 2004, Applicant filed a response to the Motion to Intervene ("Applicant's Response"). On September 3, 2004, Movant filed a reply to Applicant's Response.

A hearing on the Motion to Intervene was held at 9:00 a.m. on November 23, 2004, at the commission's Hawaii District Office. Applicant's President represented Applicant at the hearing. Jack's was represented by attorney Wray Kondo.

On March 15, 2005, the hearings officer, Kevin M. Katsura, issued a Recommended Decision, wherein he recommended that the commission deny Jack's Motion to Intervene.

On March 30, 2005, Jack's filed timely exceptions to the Recommended Decision ("Exceptions")¹ and asked that the Recommended Decision be reversed and that oral arguments be heard on the Exceptions, pursuant to HAR § 6-61-132. On April 6, 2005, Applicant filed a brief opposing Jack's Exceptions.

HAR § 6-61-132 provides that the commission may "on its own motion or on the request of any party", direct oral argument on exceptions. Accordingly, the commission will grant Jack's request for oral arguments on the Exceptions filed in this docket. Additionally, in light of the commission granting Jack's request for oral arguments, the commission will also give Applicant an opportunity, if it so desires, to present oral arguments on the Exceptions.

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¹<u>See</u> HAR § 6-61-130.

II.

Order

THE COMMISSION ORDERS that Jack's request for the commission to hear oral arguments on its Exceptions, filed on March 30, 2005, is granted. The commission shall hear Jack's and Applicant's oral arguments relating to Jack's Exceptions at 465 South King Street, Room B3, Honolulu, Hawaii, on May 24, 2005 at 1:00 p.m. Jack's and Applicant may be represented by counsel. If either side chooses not to retain counsel for oral argument, each may be represented at the hearing as follows: individual may appear on his or her own behalf; (b) a partner may represent a partnership; and (c) an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

DONE at Honolulu, Hawaii APR 2 7 2005

PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

Carlito P. Caliboso, Chairman

APPROVED AS TO FORM:

Benedyne §. Commission Counsel

04-0168.rpr

Kimura, Commissioner

Kawelo, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21779 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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KUMIKO HASEGAWA 4U2C, INC., dba HAWAII NATURE EXPLORERS P. O. Box 5596 Hilo, HI 96720

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(Attorney for JACK'S TOURS, INC.)

Karen Higashi

DATED: APR 2 7 2005