BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PATTERSON CONSTRUCTION &
TRUCKING, INC.
)
For Expedited and Temporary
Authority to Utilize
Non-Certificated or Non-Permitted
Carriers of Property in the Dump
Truck Classification on the Island
of Molokai.
)

DECISION AND ORDER NO. 21866

Filed June 14, 2005
At 2 o'clock P.M.

Karen Higashif
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

PATTERSON CONSTRUCTION & TRUCKING, INC. )

Docket No. 05-0143 )

Decision and Order No. 21866 )

For Expedited and Temporary )
Authority to Utilize )
Non-Certificated or Non-Permitted )
Carriers of Property in the Dump )
Truck Classification on the Island )
of Molokai. )

DECISION AND ORDER

By this Decision and Order, the commission approves PATTERSON CONSTRUCTION & TRUCKING, INC.'s ("Patterson") June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday, June 17, 2005, to Saturday, June 18, 2005, on the island of Molokai, subject to certain conditions described herein.

I. Expedited and Temporary Request for Approval

Patterson seeks expedited and temporary commission approval to utilize non-certificated or non-permitted carriers of property in the dump truck classification, for a period of fourteen (14) hours commencing on Friday, June 17, 2005, for the purpose of transporting property (i.e., cinder) for compensation or hire onto
a barge docked on the island of Molokai, which is scheduled to depart on Saturday, June 18, 2005.\textsuperscript{1} In support of its expedited and temporary request, Patterson represents:

1. It is proposing to transport property (i.e., cinder) for compensation or hire onto a barge docked on the island of Molokai, and must complete its proposed transportation services no later than Saturday, June 18, 2005, the date the barge will be departing the docks ("Proposed Service").\textsuperscript{2}

2. Presently, besides itself, there are only two (2) other certificated common carriers of property authorized to transport material by dump trucks on the island of Molokai: RAYMOND B. KALILIKANE SR., dba RAY'S RENTAL ("Ray's Rental") and MANABA ENTERPRISES, INC. ("Manaba"). These three (3) certificated carriers on the island of Molokai currently have a total of nine (9) dump trucks, and Patterson intends to utilize all nine (9) dump trucks for the Proposed Service from June 17-18, 2005.\textsuperscript{3}

\textsuperscript{1}See Patterson's letter attached hereto as Exhibit "1", dated June 9, 2005 ("Patterson Letter").

\textsuperscript{2}Per telephone conversation on June 13, 2005 between Patterson and commission staff; and see also, Patterson Letter.

\textsuperscript{3}Id.
3. To timely and adequately complete the Proposed Service, Patterson needs to utilize approximately ten (10) additional dump trucks from carriers of property that are not presently certificated or permitted by the commission.\(^4\)

As such, Patterson asserts that there is an immediate and urgent need for the Proposed Service, and that there are no other dump truck carriers on the island of Molokai capable of providing the Proposed Service.\(^5\)

II.

Discussion

Hawaii Revised Statutes ("HRS") § 271-16 provides, in relevant part:

To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for service by a common carrier or a contract carrier by motor vehicle, as the case may be. The temporary authority, unless suspended or revoked for good cause, shall be valid for the time that the commission shall specify, but for no more than a period of one-hundred-twenty days for any one immediate and urgent need.

\(^4\)Id.

\(^5\)Id.
Patterson, Ray's Rental and Manaba are all common carriers of property authorized to, among other things, transport property in the dump truck classification on the island of Molokai.\textsuperscript{6} Besides these carriers, there are no other carriers (i.e., certificated or permitted) on the island of Molokai authorized to transport property in the dump truck classification.\textsuperscript{7} Furthermore, both Ray's Rental and Manaba orally confirm that they do not object to Patterson's June 9, 2005 request.\textsuperscript{8}

Based on the above and Patterson's representations, we find Patterson's June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday, June 17, 2005 to Saturday, June 18, 2005, to be reasonable and consistent with the public interest. We also find that Patterson has adequately complied with the requirements set forth under HRS § 271-16. Thus, we conclude that Patterson's June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted common carriers of property in the dump truck

\textsuperscript{6}Decision and Order No. 8722, filed on April 17, 1986, in Docket No. 5437 (granting Patterson a certificate of public convenience and necessity ("CPCN"); Decision and Order No. 18727, filed on August 9, 2001, in Docket No. 01-0198 (granting Ray's Rental a CPCN); and Decision and Order No. 21829, filed on May 19, 2005, in Docket No. 05-0052 (granting Manaba a CPCN).

\textsuperscript{7}The commission also takes official notice, pursuant to Hawaii Administrative Rules ("HAR") § 6-61-48, of all commission records relating to Patterson, Ray's Rental and Manaba and other carriers operating on the island of Molokai.

\textsuperscript{8}Per separate June 13, 2005 telephone conversations between Ray's Rental and Manaba with commission staff.
classification should be approved, subject to the following conditions:

1. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers utilized to perform the Proposed Service comply with the applicable insurance requirements set forth under HAR §§ 6-62-8.

2. Patterson shall ensure that the Proposed Service performed by non-certificated or non-permitted carriers is charged only at Patterson’s approved tariff rates filed with the commission in accordance with HRS §§ 271-20 and 271-21.

3. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers comply with the safety requirements of the Motor Vehicle Safety Office, Department of Transportation, State of Hawaii.

III.

Orders

THE COMMISSION ORDERS:

1. Patterson’s June 9, 2005 request for expedited and temporary authority to utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday,
June 17, 2005, to Saturday, June 18, 2005, on the island of Molokai is approved, subject to the following conditions:

   a. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers utilized to perform the Proposed Service comply with the applicable insurance requirements set forth under HAR § 6-62-8.

   b. Patterson shall ensure that the Proposed Service performed by non-certificated or non-permitted carriers is charged only at Patterson’s approved tariff rates filed with the commission in accordance with HRS §§ 271-20 and 271-21.

   c. Patterson shall ensure that all certificated, non-certificated and non-permitted carriers comply with the safety requirements of the Motor Vehicle Safety Office, Department of Transportation, State of Hawaii.

Patterson’s decision to commence the Proposed Service and utilize non-certificated or non-permitted carriers of property in the dump truck classification from Friday, June 17, 2005, to Saturday, June 18, 2005, on the island of Molokai, as authorized by this
Decision and Order, constitutes acceptance and agreement with the conditions and requirements of our approval, as set forth above.

2. Failure to adequately comply with the requirements set forth in this Decision and Order may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

3. This docket is closed unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii JUN 14 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

By Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Kris N. Nakagawa
Commission Counsel
Dear Mr. Chairman,

The Honolulu P.U.C. has told me that I need to make a formal request to hire some non-P.U.C. trucks. Currently there are three P.U.C. Dump licenses on Molokai, Myself, (Patterson Construction) Raymond Kalilikanc, & Manaba Enterprises; with all of our trucks combined, we have nine P.U.C. trucks. I need to load a bardge Friday June 17, 2005, and I have a fourteen-hour period, to accomplish this I need to hire approximately 10 independent trucks that are non-P.U.C. licensed. I realize this is very short notice but bardge dates are extremely hard to get on Molokai.

I appreciate you taking the time to look into this matter. I am faxing you this letter because time is of the essence, due to the short notice I received from the bardging company. I will also be mailing the original letter today.

Thank you.
David E. Patterson
06/09/05

EXHIBIT 1
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21866 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

PATTERSON CONSTRUCTION & TRUCKING, INC.
c/o DAVID E. PATTERSON, PRESIDENT
P. O. Box 354
Hoolehua, HI 96729

DATED: JUN 14 2005

Karen Higashi