

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
JOHN R. EDNEY, dba)
BIG ISLAND ELITE LIMOUSINE SERVICE)
)
For a Motor Carrier Certificate or)
Permit.)
_____)

DOCKET NO. 04-0258

DECISION AND ORDER NO. 21896


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

Filed June 28, 2005

At 11:30 o'clock A .M.


for Brooke K. Kane
Chief Clerk of the Commission

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OF THE STATE OF HAWAII

In the Matter of the Application of)
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JOHN R. EDNEY, dba)
BIG ISLAND ELITE LIMOUSINE SERVICE)
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Docket No. 04-0258

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DECISION AND ORDER

By this Decision and Order, the commission grants JOHN R. EDNEY, dba BIG ISLAND ELITE LIMOUSINE SERVICE ("Applicant"), a certificate of public convenience and necessity ("Certificate") 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, subject to certain conditions, as described herein.

I.

Application for Common Carrier Authority

On August 13, 2004, Applicant filed an application requesting a Certificate 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 application is made pursuant to Hawaii Revised Statutes ("HRS") § 271-12.

Applicant served copies of the application on the Hawaii Transportation Association, which consists of carriers that may be affected by Applicant's proposed service, and on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"). The Consumer Advocate did not participate in this proceeding.

On September 27, 2004, Jack's Tours, Inc. ("Jack's Tours") filed a motion to intervene in the instant proceeding ("Motion to Intervene") in which it also requested that the commission hear oral argument on the Motion to Intervene. On October 12, 2004, Applicant filed a response to the Motion to Intervene ("Applicant's Response"). On October 15, 2004, Jack's Tours filed a Motion to Strike Applicant's Response ("Motion to Strike"). On November 3, 2004, Jack's Tours filed a Reply Memorandum in Support of the Motion to Strike. On November 23, 2004, oral argument on the Motion to Intervene was held in Hilo, Hawaii. Applicant represented himself at the oral argument, while Jack's Tours was represented by its attorney.

On March 15, 2005 the commission issued Findings of Fact, Conclusions of Law, and Recommended Decision and Order of Hearings Officer ("Recommended Decision") in which the hearings officer recommended that the commission deny Jack's Tours' Motion to Intervene. On March 30, 2005, Jack's Tours filed written exceptions to the Recommended Decision ("Exceptions"), pursuant to Hawaii Administrative Rules § 6-61-130, and requested that the commission hear oral argument on the Exceptions. Oral argument

on the Exceptions was heard by the commission on May 24, 2005. On June 3, 2005, the commission issued Order No. 21856 approving, and adopting *in toto*, the Recommended Decision and denying the Motion to Intervene.

II.

Findings and Conclusions

Based upon our review of the record, we find that Applicant is fit, willing, and able to properly perform the proposed service, and to conform to HRS chapter 271 and the requirements and rules of the commission. We also find that the proposed service is required by the present and future public convenience and necessity. Accordingly, we conclude that Applicant's request for operating authority, as set forth in the application, should be granted.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted a Certificate 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.

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, paying a

fee of \$20 for motor carrier gross revenues, and filing the appropriate insurance documents.

3. Applicant shall comply with the foregoing requirements within one hundred and twenty (120) 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 under this Decision and Order until he has received written confirmation from the commission that all requirements have been met.

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

DONE at Honolulu, Hawaii JUN 28 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By Wayne H. Kimura
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Benedyne S. Stone
Benedyne S. Stone
Commission Counsel

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

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CERTIFICATE OF SERVICE

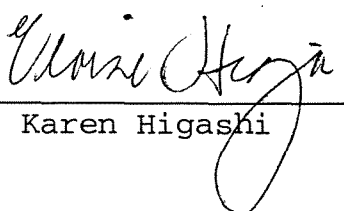
I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21896 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

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BIG ISLAND ELITE LIMOUSINE SERVICE
P. O. BOX 142
Hawi, HI 96719

WILLIAM W. MILKS, ESQ.
ASB Tower, Suite 977
1001 Bishop Street
Honolulu, HI 96813

DATED: JUN 28 2005



Karen Higashi