

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Request of)
)
D & A HAULING, LLC)
)
To Reactivate Motor Carrier)
Certificate No. 5173-C.)

DOCKET NO. 03-0044

In the Matter of the Application of)
)
D & A HAULING, LLC)
)
To Sell, Lease, Assign, Mortgage or)
Otherwise Dispose of, or Encumber)
The Whole or Any Part of Its)
Property, Certificate, or Permit.)

DOCKET NO. 05-0068

(CONSOLIDATED)

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

2005 JUL 22 A 8:04

RECEIVED

DECISION AND ORDER NO. 21937

Filed July 21, 2005
At 3 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Request of)	
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D & A HAULING, LLC)	Docket No. 03-0044
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To Reactivate Motor Carrier)	
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In the Matter of the Application of))	
)	
D & A HAULING, LLC)	Docket No. 05-0068
)	
To Sell, Lease, Assign, Mortgage or)	(Consolidated)
Otherwise Dispose of, or Encumber)	
The Whole or Any Part of Its)	Decision and Order No. 21937
Property, Certificate, or Permit.)	
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DECISION AND ORDER

By this Decision and Order, the commission reactivates certificate of public convenience and necessity number 5173-C ("Certificate No. 5173-C"), held by D & A HAULING, LLC ("Transferor"), and approves the transfer of Certificate No. 5173-C from Transferor to PUU WAA WAA CATTLE CO., LLC ("Transferee"), subject to certain conditions, as described herein.

I.

Application

On March 16, 2005, Transferor filed a letter requesting that Certificate No. 5173-C be reactivated. By Order No. 21449, filed on November 5, 2004, in Docket No. 03-0044, Certificate No. 5173-C was placed on inactive status until October 29, 2005.

On March 16, 2005, Transferor also filed an application in Docket No. 05-0068 seeking commission approval to transfer Certificate No. 5173-C to Transferee, pursuant to Hawaii Revised Statutes ("HRS") § 271-18. Under Certificate No. 5173-C, and pursuant to HRS § 271-12, Transferor is authorized to operate as a common carrier of property by motor vehicle over irregular routes on the island of Hawaii in the general commodities and dump truck classifications.

Transferor served copies of the application on the Hawaii Transportation Association, which consists of carriers that may be affected by the proposed transfer, and on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"). The Consumer Advocate did not participate in this proceeding, and no persons moved to intervene in this docket.

II.

Consolidation

Hawaii Administrative Rules ("HAR") § 6-61-39 provides that the commission, upon its own initiative, may consolidate two or more proceedings that involve related questions of fact or law if it finds that the consolidation will be conducive to the proper dispatch of its business and to the ends of justice, and will not unduly delay the proceedings.

Upon review of the record, we find that Docket Nos. 03-0044 and 05-0068 involve related questions of fact and law. We also find that the consolidation of these proceedings

will be conducive to the proper dispatch of the commission's business and the ends of justice, and will not unduly delay these proceedings.

Based on the foregoing, we conclude that Docket Nos. 03-0044 and 05-0068 should be consolidated.

III.

Findings and Conclusions

At the outset, we find that there is good cause to grant Transferor's request to reactivate Certificate No. 5173-C, pursuant to HRS § 271-19.

Transferor also seeks commission approval to transfer Certificate No. 5173-C to Transferee, pursuant to HRS § 271-18. Upon review of Transferor's application, the commission finds that Transferee is fit, willing, and able to perform the services presently performed by Transferor, and that the proposed transfer of Certificate No. 5173-C is just and reasonable and will be consistent with the public interest. Accordingly, the commission concludes that the proposed transfer is in accordance with HRS § 271-18, and should, therefore, be approved.

IV.

Orders

THE COMMISSION ORDERS:

1. Docket Nos. 03-0044 and 05-0068 are consolidated, pursuant to HAR § 6-61-39.

2. Certificate No. 5173-C is reactivated, effective from the date of this Decision and Order.

3. Transferor's application to transfer Certificate No. 5173-C to Transferee is approved.

4. Transferor shall surrender Certificate No. 5173-C, and a certificate reflecting the operating authority granted by this Decision and Order shall be issued to Transferee.

5. Transferee 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.

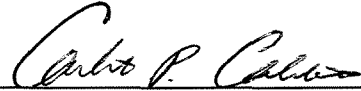
6. Transferor and Transferee shall comply with the foregoing requirements within one hundred and twenty (120) days after service of this Decision and Order. Failure to comply within the time specified constitutes cause for this commission to void this Decision and Order.

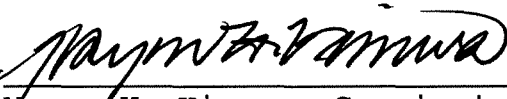
7. Transferee shall not commence operations under this Decision and Order until it has received written confirmation from the commission that all requirements have been met.

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

DONE at Honolulu, Hawaii JUL 21 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:


Benedyne S. Stone
Commission Counsel

03-0044&05-0068.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21937 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

D & A HAULING, LLC
c/o ANDREW BOTEILHO
P. O. Box 399
Paauili, HI 96776

PUU WAA WAA CATTLE CO., LLC
c/o ERNEST DE LUZ
P. O. Box 238
Honokaa, HI 96727



Karen Higashi

DATED: JUL 21 2005