

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
GRACE PACIFIC CORPORATION)
)
To Transfer a Motor Carrier)
Certificate or Permit.)
_____)

DOCKET NO. 05-0020

ORDER NO. 21949

Filed July 28, 2005
At 2 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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

2005 JUL 29 A 7:45

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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 Application of))	
GRACE PACIFIC CORPORATION))	Docket No. 05-0020
To Transfer a Motor Carrier))	Order No. 21949
Certificate or Permit.))	
_____))	

ORDER

By this Order, the commission denies Operating Engineers Local Union No. 3's ("Local 3") motion for reconsideration of Order No. 21898 ("Motion for Reconsideration"), filed on July 11, 2005, in the matter of the application of GRACE PACIFIC CORPORATION ("Applicant") to transfer a motor carrier certificate or permit ("Application").

I.

Background

By Order No. 21898, filed on June 29, 2005, ("Order No. 21898") the commission, among other things, denied Local 3's motion to intervene in the instant proceeding, and granted Local 3 participant status in the Application, pursuant to Hawaii Administrative Rules ("HAR") § 6-61-56. On July 11, 2005,

Local 3 filed a timely Motion for Reconsideration of Order No. 21898, pursuant to HAR § 6-61-137.¹

II.

Discussion

The standard for granting a motion for reconsideration is established in HAR § 6-61-137, which provides that a movant must set forth specific grounds on which the movant considers the decision or order to be unreasonable, unlawful, or erroneous. We apply this standard to Local 3's Motion for Reconsideration.

In seeking reconsideration, Local 3 argues that Order No. 21898 is unreasonable. In particular, Local 3 asserts that the commission's grant of participant status will not allow it to adequately protect the interests of affected employees.

Upon careful consideration, the commission finds nothing in Local 3's Motion for Reconsideration that merits reconsideration, modification or reversal of Order No. 21898. Local 3 has not met its burden of showing that the commission's decision is unreasonable, unlawful, or erroneous. The commission also affirms by this Order that Local 3's participation is limited

¹On July 18, 2005, Applicant filed a memorandum in opposition to the Motion for Reconsideration ("Memorandum in Opposition"). Pursuant to HAR § 6-61-140, the commission may accept replies to a motion for reconsideration if the commission deems a reply "desirable or necessary". Applicant did not request leave of the commission to file its Memorandum in Opposition. In this instance, the commission does not find a reply to the Motion for Reconsideration to be desirable or necessary to a determination of the Motion for Reconsideration. Accordingly the commission will not consider Applicant's Memorandum in Opposition.


to those parameters set forth in Order No. 21898.² We, thus, conclude that the Motion for Reconsideration should be denied.

III.

THE COMMISSION ORDERS that Local 3's Motion for Reconsideration of Order No. 21898 is denied.


DONE at Honolulu, Hawaii JUL 28 2005.

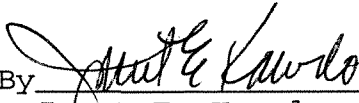
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

By 
Janet E. Kawelo, Commissioner

05-0020.rpr

²Order No. 21898 limited Local 3's participation in the instant proceeding to the following: (1) an opportunity to address issues solely pertaining to the effects of the proposed transaction on Applicant's existing employees covered by the union bargaining agreement through not more than two (2) sets of information requests, a legal brief limited to the issue of whether or not this proceeding should be stayed pending a full and final resolution of Local 3's complaint against Applicant to the National Labor Relations Board and a final position statement addressing these issues for the commission's review; (2) an opportunity to be heard at a public hearing; and (3) the ability to monitor this proceeding by receiving all pleadings, decisions, orders and other documents filed with the commission in this docket.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21949 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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CERTIFICATE OF SERVICE - CONTINUED

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Karen Higashi

Karen Higashi

DATED: JUL 28 2005