

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
POLYNESIAN ADVENTURE TOURS, INC.)
For Temporary Common Carrier)
Authority.)
_____)

DOCKET NO. 05-0207

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2005 SEP 26 A 8:26
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

DECISION AND ORDER NO. 22049

Filed Sept. 23, 2005
At 10:20 o'clock A.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 Application of)
POLYNESIAN ADVENTURE TOURS, INC.) Docket No. 05-0207
For Temporary Common Carrier) Decision and Order No. 22049
Authority.)
_____)

DECISION AND ORDER

By this Decision and Order, the commission denies the request of POLYNESIAN ADVENTURE TOURS, INC. ("Applicant") for temporary authority to operate as a common carrier of property by motor vehicle in the general commodities classification over irregular routes on the islands of Kauai, Oahu, Maui, and Hawaii.

I.

Application for Temporary Common Carrier Authority

On August 16, 2005, Applicant filed an application requesting temporary authority to operate as a common carrier of property by motor vehicle in the general commodities classification over irregular routes on the islands of Kauai, Oahu, Maui, and Hawaii.¹ The application is made pursuant to Hawaii Revised Statutes ("HRS") § 271-16. Applicant proposes to transport luggage to the airport for the cruise ship passengers

¹Applicant is currently authorized, under certificate of public convenience and necessity number 974-C, to transport passengers by motor vehicle in the 8-to-25 and over-25 passenger classifications on the islands of Kauai, Oahu, Maui, and Hawaii.

of its parent company, Norwegian Cruise Lines America, Inc. ("NCLA"), who do not wish to take NCLA shore excursions or who elect to take independent shore excursions in between ship-airport departures (i.e., who do not go to the airport from the cruise ship via Applicant's transportation services). Currently, these passengers have to take their luggage with them.

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.

II.

Findings and Conclusions

For a grant of temporary operating authority pursuant to HRS § 271-16, an applicant must satisfy two conditions. First, the applicant must establish that there is "an immediate and urgent need" for the proposed service. Second, the applicant must demonstrate "[an] absence of carrier service capable of meeting the need between points or in the territory where the temporary service will be instituted." See In re Robert's Tours & Transportation, Inc., Decision and Order No. 15274, Docket No. 96-0437 (December 23, 1996). Moreover, the commission may, at its discretion, grant temporary authority without hearings or other proceedings. HRS §271-16.

Based upon our review of the application, we find that Applicant does not meet the criteria for temporary authority set

forth in HRS § 271-16. Applicant states that it plans to launch its proposed baggage transportation services during the summer of 2005, as NCLA has a full summer schedule of cruise ship passengers entering the ports of the State of Hawaii who may need its proposed services. The temporary authority, thus, would appear to be necessary until the commission made a determination regarding Applicant's request for permanent authority for the same services.² Arguably, while Applicant may have satisfied the first condition for a grant of temporary authority, i.e., that there is an immediate and urgent need for its motor carrier service, the commission finds that Applicant has failed to satisfy the second condition, which is to demonstrate that no other motor carrier is able to provide the motor carrier service proposed by Applicant. Indeed, Applicant did not provide any evidence, for the commission's review, showing that no other carrier is able to provide the proposed motor carrier service. The commission, thus, concludes that Applicant's request for temporary authority should be denied.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant's request for temporary authority to operate as a common carrier of property by motor vehicle in the

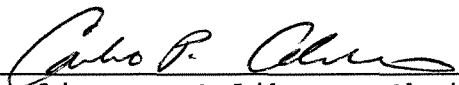
²Applicant filed an application for permanent authority for the same services on August 16, 2005, in Docket No. 05-0208.

general commodities classification over irregular routes on the islands of Kauai, Oahu, Maui, and Hawaii is denied.


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

DONE at Honolulu, Hawaii SEP 23 2005.

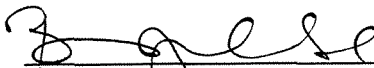
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

05-0207.rpr

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22049 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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Honolulu, HI 96809

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Karen Higashi

DATED: SEP 23 2005