

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MERCER TRANSPORTATION CO., INC.)
For Temporary Contract Carrier)
Authority.)

Docket No. 2006-0378

DECISION AND ORDER NO. 22862

Filed September 15, 2006
At 5:50 o'clock P.M.

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

for Brodie K. Kane
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)
MERCER TRANSPORTATION CO., INC.)
For Temporary Contract Carrier)
Authority.)
_____)

Docket No. 2006-0378
Decision and Order No. **22862**

DECISION AND ORDER

By this Decision and Order, the commission grants MERCER TRANSPORTATION CO., INC. ("Applicant") temporary authority to operate as a contract carrier of property by motor vehicle over irregular routes on the island of Oahu in the specific commodities (military vehicles) classification, pursuant to a contract with Matson Navigation Company, and subject to certain conditions, as described herein.

I.

Application for Temporary Common Carrier Authority

On September 15, 2006, Applicant filed an application requesting temporary authority to operate as a contract carrier of property by motor vehicle over irregular routes on the island of Oahu in the specific commodities (military vehicles) classification, pursuant to a contract with Matson Navigation Company. The application was filed pursuant to Hawaii Revised Statutes ("HRS") § 271-16.

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., Docket No. 96-0437, Decision and Order No. 15274 (Dec. 23, 1996). The commission may, at its discretion, grant temporary authority without hearings or other proceedings. HRS § 271-16.

Upon review, we find that Applicant meets the criteria for temporary authority set forth in HRS § 271-16. First, Applicant's proposed service is immediately and urgently needed to provide services to the Department of Defense ("DOD"), i.e., the United States Army ("Army"). Applicant was hired to provide ground transportation services to transport highly sensitive and classified Stryker military vehicles for the DOD via a contract with Matson Navigation Company ("Matson"). Specifically, Applicant transports Stryker military vehicles from Fort Lewis, Washington to Matson's dock in Seattle, Washington. Matson then transports the vehicles by container ship to Hawaii. Upon arrival at Matson's Sand Island Pier, Applicant transports the Stryker vehicles to Schofield Barracks and other military installations on the island of Oahu, if necessary. It is the

commission's understanding that the timeliness of the transport of these vehicles is critical to our government's efforts in Operation Iraqi Freedom and Operation Enduring Freedom.¹

Second, Applicant is the only motor carrier capable of performing the needed transportation services in the State of Hawaii. As set forth in the Application, Applicant's contract requires that Applicant provide Transportation Protective Services, which includes, but is not limited to, Dual Driver Protection and Satellite Monitoring Service. Applicant's drivers are required to possess SECRET level clearance with the Defense Security Service and the Department of Defense. Applicant represents that there are no Hawaii-based property motor carriers that meet the requirements of its contract with Matson and possess the requisite security clearances.²

Pursuant to HRS § 271-16, the commission may grant temporary authority to an applicant for no more than one hundred and twenty (120) days. We conclude, therefore, that since Applicant satisfied the requirements for a grant of temporary authority pursuant to HRS § 271-16, it should be granted temporary authority for a period of one hundred and twenty (120) days, subject to the conditions described above.

¹In addition to the representations made by Applicant in its Application, on September 15, 2006, the commission was provided with a confidential briefing by representatives of Applicant, Matson, and DOD concerning the exigency of the situation.

²At the September 15, 2006 briefing, Matson made similar representations regarding the lack of Hawaii-based motor carriers who meet the qualifications set forth in Applicant's contract.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted temporary authority to operate as a contract carrier of property by motor vehicle over irregular routes on the island of Oahu in the specific commodities (military vehicles) classification, pursuant to a contract with Matson Navigation Company. The temporary authority shall be valid for no more than one hundred and twenty (120) days from the date of this Decision and Order, in accordance with HRS § 271-16, subject to the conditions described above.

2. Because of the exigency of the situation as described in the Application, Applicant may commence operations immediately. The temporary authority, however, may be terminated for good cause, including, but not limited to, Applicant's failure to file the following documents within fifteen days (15) after the date of this Decision and Order:

a. A Tax Clearance Certificate issued by the State of Hawaii Department of Taxation.

b. Copies of the lease and Certificate of Registration for the 1997 Freightliner listed on Applicant's Vehicle Inventory List.

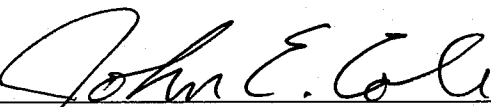
c. Copy of the executed contract between Applicant and Matson.

d. The original "Declaration of Jack Lubay and other letters/documents" that Applicant stated that it would provide in support of its Application.

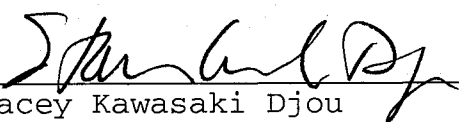
DONE at Honolulu, Hawaii SEP 15 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I will serve a copy of the foregoing
Decision and Order No. 22862 upon the following parties, by
causing a copy hereof to be mailed, postage prepaid, and properly
addressed to each such party on September 18, 2006.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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for Karen Higashi

DATED: SEP 15 2006