

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

YOUNG BROTHERS, LIMITED )

DOCKET NO. 2006-0396

For Approval of a General Rate )  
Increase, Rate Restructuring, Fuel )  
Price Adjustment Clause, and Other )  
Tariff Changes. )

ORDER NO. 23311

Filed March 16, 2007

At 12 o'clock P.M.

Karen Higashi.  
Chief Clerk of the Commission

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

2007 MAR 19 A 9:22

RECEIVED

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

Karen Higashi.

In the Matter of the Application of)  
YOUNG BROTHERS, LIMITED)  
For Approval of a General Rate)  
Increase, Rate Restructuring, Fuel)  
Price Adjustment Clause, and Other)  
Tariff Changes.)

Order No. 23311

<sup>1</sup>The Parties are Young Brothers and the Consumer Advocate, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

based on a 2007 calendar test year and a proposed rate of return of 10.84 percent (for its intrastate water carrier operations).<sup>2</sup> For the specific cargo types, Young Brothers proposes rate increases ranging from 0 to 24 percent. Young Brothers also seeks to increase its minimum bill of lading by 24 percent. In essence, Young Brothers states that it proposes to restructure its rates to move toward compensatory pricing.

As part of its Application, Young Brothers also proposes to establish: (1) an automatic fuel price adjustment clause if the price of diesel fuel increases or decreases by \$0.15 above or below the per-gallon base level; and (2) a minimum charge for platforms. In addition, Young Brothers proposes certain changes to its tariff language, including revisions to the definitions of "automobile" and "island agricultural products."

On January 26, 2007, the commission suspended Young Brothers' Application for investigation, and instructed the Parties to submit a stipulated prehearing order to the commission by February 16, 2007.<sup>3</sup> On February 16, 2007, the Parties timely submitted their proposed Stipulated Prehearing Order, including

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<sup>2</sup>Application of YB for Approval of a General Rate Increase, Rate Restructuring, Fuel Price Adjustment Clause and Other Tariff Changes in Local Freight Tariff No. 5-A, Exhibits YB-Ex-1 to YB-Ex-13; Direct Testimonies YB-DT-100 to YB-DT-800; Verification; and Certificate of Service, filed on December 15, 2006 (collectively, "Application"). Young Brothers served copies of its Application upon the Consumer Advocate.

<sup>3</sup>Order No. 23222, filed on January 26, 2007.

their proposed Stipulated Regulatory Schedule, for the commission's review and consideration.<sup>4</sup>

A.

Waiver of the Six-Month Deadline for  
Issuance of the Commission's Final Order

HRS § 271G-17(d) states in relevant part:

The commission may upon complaint of any interested person or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, enter upon a hearing concerning the lawfulness of the rate, fare, or charge, or the rule, regulation, or practice, and pending the hearing and the decision thereon the commission, by delivering to the carrier or carriers affected thereby a statement in writing of its reasons therefor, may suspend the operation of the schedule and defer the use of the rate, fare, or charge, or the rule, regulation or practice. From the date of ordering a hearing to investigate the lawfulness of the rate, fare, or charge, the commission shall have up to six months to complete its investigation. If the commission fails to issue a final order within the six-month period then the changes proposed by the carrier shall go into effect. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice, is just and reasonable.

HRS § 271G-17(d). See also HAR § 6-65-40(c) (tariff suspension for up to six months from the date of the commission's suspension order).

Ordering Paragraphs No. 1 and No. 4, of Order No. 23222, state:

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<sup>4</sup>The proposed Stipulated Prehearing Order is attached as Exhibit 1 to this Order.

1. Young Brothers' Application, filed on December 15, 2006, is suspended for a maximum period of up to six months from the date of this Order, and an investigation is instituted to examine the merits of Young Brothers' Application. Any increase in rates approved by the commission in this proceeding (if any) shall take effect no earlier than September 18, 2007.

. . . . .

4. The Parties shall submit a stipulated prehearing order to the commission by February 16, 2007, for the commission's review and consideration. At a minimum, the stipulated prehearing order submitted by the Parties shall provide that the last pleading filed in this proceeding, i.e., the Parties' simultaneous post-hearing reply briefs or their settlement agreement on the merits (i.e., stipulation), shall be filed by June 15, 2007.

Order No. 23222, Ordering Paragraphs No. 1 and No. 4, at 41 - 42.

Notwithstanding these ordering paragraphs, footnote 3 of Order No. 23222 provides:

The suspension period will be six months from the date of the filing of this Order, unless otherwise stipulated to by the Parties with approval of the commission.

Order No. 23222, at 1 n.3.

Consistent with footnote 3, the commission finds that the Parties, by filing the proposed Stipulated Regulatory Schedule, voluntarily and intentionally waive the commission's issuance of its final order by July 26, 2007, i.e., within six months from the date of Order No. 23222.<sup>5</sup> Specifically, as agreed-upon by the Parties in footnote 4 of its proposed Stipulated Regulatory Schedule:<sup>6</sup>

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<sup>5</sup>See HRS § 271G-17(d); and HAR § 6-65-40(c).

<sup>6</sup>The June 15, 2007 deadline for the Parties to file their final pleading, as set forth in Ordering Paragraph No. 4, was

In Order No. 23222, the Commission ruled that any increase in rates approved in this proceeding shall take effect no earlier than September 18, 2007. Under Order No. 23222 and other circumstances specific to this proceeding, [the] Parties stipulate that Commission action required under section 271G-17, Hawaii Revised Statutes, and section 6-65-40, Hawaii Administrative Rules, within six months of its suspension order (Order No. 23222) is waived for this proceeding only.

Parties' Proposed Stipulated Regulatory Schedule, at 2 n.4 (emphasis added).

The commission approves the Parties' voluntary and intentional waiver of the six-month deadline for the commission's issuance of its final order by July 26, 2007.<sup>7</sup> Consistent thereto, the commission, on its own motion, clarifies Ordering Paragraph No. 1 of Order No. 23222, by stating in Ordering Paragraph No. 1 of this Order that Young Brothers' Application is suspended, with no reference to the maximum six-month suspension period.

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predicated on the requirement for the commission to issue its final order by July 26, 2007, the six-month deadline. Nonetheless, the Parties' proposals to file their stipulation (if any), opening briefs, and reply briefs on dates after June 15, 2007, are consistent with their agreement to waive the commission's issuance of its final order by July 26, 2007, the six-month deadline.

<sup>7</sup>See Ass'n of Owners of Kukui Plaza v. Swinerton & Walberg Co., 68 Haw. 98, 108 (waiver is generally defined as an intentional relinquishment of a known right or a voluntary relinquishment of some rights).

B.

Modifications

Upon review, the commission will adopt the Parties' proposed Stipulated Prehearing Order, subject to certain modifications described below. Specifically:<sup>8</sup>

1. The commission amends Section II, Schedule of Proceedings, and Section VI, General, of the proposed Stipulated Prehearing Order, consistent with past commission decisions governing stipulated prehearing and procedural orders, respectively.<sup>9</sup> Thus, Sections II and VI are amended as follows:

II.

SCHEDULE OF PROCEEDINGS

Parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached to this Stipulation as Exhibit "A." (Stipulated Regulatory Schedule) Notwithstanding the above, Parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing [from time to time, with the Commission's approval.] and approved by the Commission, or upon the Commission's own motion.

. . . . .

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<sup>8</sup>Deletions are bracketed, additions are underscored.

<sup>9</sup>See In re Maui Elec. Co., Ltd., Docket No. 2006-0186, Order No. 22837, filed on September 11, 2006 (citing to In re Young Bros., Ltd., Docket No. 2006-0120, Order No. 22695, filed on August 7, 2006; and In re Kauai Island Util. Coop., Docket No. 2006-0134, Order No. 22666, filed on August 2, 2006).

VI.

GENERAL

The foregoing procedures shall be applied in a manner consistent with the orderly conduct of this proceeding. [Pursuant to HAR § 6-61-37 this] This Stipulation for Prehearing Order shall control the subsequent course of the proceeding, unless modified by the Parties in writing [or to prevent manifest injustice, subject to the Commission's approval.] and approved by the Commission, or upon the Commission's own motion.

This Stipulation for Prehearing Order may be executed by Parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

2. For Items No. 14 and No. 17, the respective dates set forth in the procedural steps are corrected as follows:

- |   |   |
|---|---|
| 14. Friday, April 27-Friday,<br>May 4, 2007 | Consumer Advocate to submit responses to YB's IRs on a rolling basis, but in no event later than [April 20, 2007] <u>May 4, 2007</u>                    |
| . . . . .                                   |   |
| 17. No later than Monday,<br>June 18, 2007  | Young Brothers to submit responses to outstanding RIRs as soon as they are available, but in no event no later than [May 14, 2007] <u>June 18, 2007</u> |

2. Item No. 18 of the proposed Stipulated Regulatory Schedule sets a deadline of June 25, 2007, for the Parties to submit their stipulation (i.e., settlement agreement) with the commission, if any. The corresponding footnote 2 states that the Parties: (A) reserve the right to engage in settlement discussions "at any time" on any of the disputed issues, including the right to waive the evidentiary hearing in this proceeding; and (B) will promptly notify the commission of any



settlement and revise the Stipulated Regulatory Schedule as necessary.

In response, the commission amends the proposed Stipulated Regulatory Schedule by: (A) removing the "at any time" language in footnote 2, in order to remove any inconsistency with the June 25, 2007 deadline to submit their stipulation;<sup>10</sup> and (B) clarifying that any revisions to the Stipulated Regulatory Schedule agreed-upon by the Parties are subject to the commission's approval. Thus, footnote 2 of Item No. 18 is amended as follows:

18. Monday, June 25, 2007 Stipulation on issues by Parties'

.....

"Parties reserve their right to engage in settlement discussions [at any time] on any of the disputed issues pursuant to section 91-9(d), Hawaii Revised Statutes, and HAR § 6-61-35, including the right to waive the evidentiary hearing in this proceeding. Parties will promptly notify the Commission of any settlement and revise the Stipulated Regulatory Schedule [as necessary] in writing and subject to the Commission's approval, or upon the Commission's own motion.

3. Item No. 19 of the proposed Stipulated Regulatory Schedule sets a date of June 27, 2007, for the prehearing conference, if necessary. The commission amends Item No. 19 by scheduling the prehearing conference for the week of June 18, 2007, to eliminate an existing conflict in the commission's schedule. Thus, Item No. 19 is amended as follows:

19. [Wednesday, June 27, 2007] Prehearing conference, if necessary  
Week of June 18, 2007

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<sup>10</sup>See In re Puhi Sewer & Water Co., Inc., Docket No. 2006-0423, Order No. 23189, filed on January 11, 2007 (parties' proposed stipulated regulatory schedule revised by the commission by removing the "at any time" language and instead, setting a specific deadline for filing a settlement agreement, if any).

II.

Orders

THE COMMISSION ORDERS:

1. Young Brothers' Application, filed on December 15, 2006, is suspended, and an investigation is instituted to examine the merits of Young Brothers' Application. Any increase in rates approved by the commission in this proceeding (if any) shall take effect no earlier than September 18, 2007.

2. The proposed Stipulated Prehearing Order submitted by the Parties on February 16, 2007, attached as Exhibit 1 herein, is adopted as modified herein to govern the proceedings in this docket.

3. Sections II and VI of the Stipulated Prehearing Order are amended to read as follows:

II.

SCHEDULE OF PROCEEDINGS

Parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached to this Stipulation as Exhibit "A." (Stipulated Regulatory Schedule) Notwithstanding the above, Parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing and approved by the Commission, or upon the Commission's own motion.

. . . . .

VI.

GENERAL

The foregoing procedures shall be applied in a manner consistent with the orderly conduct of this proceeding. This Stipulation for Prehearing Order shall control the subsequent course of the proceeding, unless modified by the Parties in

writing and approved by the Commission, or upon the Commission's own motion.

This Stipulation for Prehearing Order may be executed by Parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

4. The Stipulated Regulatory Schedule (Exhibit A of the Stipulated Prehearing Order) is amended to read as follows:

- |           |   |   |
|-----------|---|---|
| 14.       | Friday, April 27-Friday,<br>May 4, 2007 | Consumer Advocate to submit<br>responses to YB's IRs on a<br>rolling basis, but in no<br>event later than May 4, 2007                         |
| . . . . . |   |   |
| 17.       | No later than Monday,<br>June 18, 2007  | Young Brothers to submit<br>responses to outstanding RIRs<br>as soon as they are available,<br>but in no event no later than<br>June 18, 2007 |
| 18.       | Monday, June 25, 2007                   | Stipulation on issues by Parties'   |
| 19.       | Week of June 18, 2007                   | Prehearing conference, if necessary   |

. . . . .

'Parties reserve their right to engage in settlement discussions on any of the disputed issues pursuant to section 91-9(d), Hawaii Revised Statutes, and HAR § 6-61-35, including the right to waive the evidentiary hearing in this proceeding. Parties will promptly notify the Commission of any settlement and revise the Stipulated Regulatory Schedule in writing and subject to the Commission's approval, or upon the Commission's own motion.


DONE at Honolulu, Hawaii MAR 16 2007.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel

2006-0396.eh

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )

YOUNG BROTHERS, LIMITED )

For Approval of a General Rate Increase, )  
Rate Restructuring, Fuel Price Adjustment )  
Clause, and Other Tariff Changes )

Docket No. 2006-0396

PUBLIC UTILITIES  
COMMISSION

2007 FEB 16 P 3:50

FILED

STIPULATION FOR PREHEARING ORDER NO. \_\_\_\_\_

Filed \_\_\_\_\_

At \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk of the Commission

P. Roy Catalani  
Sandra Hoshida  
Young Brothers, Limited  
Pier 40, P. O. Box 3288  
Honolulu, Hawaii 96801

J. Douglas Ing No. 1538-0  
Wray H. Kondo No. 2036-0  
Watanabe Ing & Komeiji  
First Hawaiian Center  
999 Bishop Street, 23rd Floor  
Honolulu, Hawaii 96813

Attorneys for Young Brothers, Limited

Catherine P. Awakuni  
Executive Director  
Division of Consumer Advocacy  
Department of Commerce and  
Consumer Affairs  
335 Merchant Street, Room 326  
Honolulu, Hawaii

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
YOUNG BROTHERS, LIMITED )  
For Approval of a General Rate Increase, )  
Rate Restructuring, Fuel Price Adjustment )  
Clause, and Other Tariff Changes )  
\_\_\_\_\_ )

Docket No. 2006-0396

**STIPULATION FOR PREHEARING ORDER**

Young Brothers, Limited (**YB** or **Young Brothers**) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the **CA** or **Consumer Advocate**) (YB and CA, collectively **Parties**) submit this Stipulation for Prehearing Order (this **Stipulation**) to the Honorable Public Utilities Commission of the State of Hawaii (the **PUC** or **Commission**). This Stipulation is made as directed by Order No. 23222, filed on January 26, 2007, with respect to the Application For Approval of a General Rate Increase, Rate Restructuring, Fuel Price Adjustment Clause, and Other Tariff Changes (the **Application**) filed by Young Brothers on December 15, 2006.

Young Brothers and the Consumer Advocate hereby stipulate to the following provisions of this Stipulation for Prehearing Order as mutually acceptable to each.

**I.  
STATEMENT OF THE ISSUES**

The issues in this proceeding are:

1. Whether the general rate increase, rate restructuring, fuel price adjustment clause, and other changes to Young Brothers' Local Tariff No. 5-A (**Tariff 5-A**) as

proposed in its Application (***proposed tariff changes***) are just and reasonable, are not unjustly discriminatory, and do not make, give, or cause any undue or unreasonable preference, prejudice, or advantage to any particular person, locality, region, district, island, or description of traffic subjects any particular person, locality, region, district, island, or description of traffic to any unjust discrimination or undue or unreasonable prejudice or disadvantage.

2. Whether the proposed tariff changes support the need, in the public interest, for adequate and efficient transportation service.
3. Whether the proposed tariff changes enable Young Brothers, under honest, economical, and efficient management, to provide transportation services.

## II. SCHEDULE OF PROCEEDINGS

Parties shall adhere to the schedule of proceedings set forth in Stipulated Regulatory Schedule attached to this Stipulation as Exhibit "A." (***Stipulated Regulatory Schedule***)  
Notwithstanding the above, Parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time, with the Commission's approval.

## III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A Party to this proceeding may submit information requests to another Party within the time schedule specified in this Stipulated Prehearing Order. To the extent practical, Parties will cooperate by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope or meaning of information requests, or with respect to the availability of information. If a Party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring

Party as soon as possible. Parties shall then endeavor to agree upon a later date for submission of the requested information. If Parties are unable to agree, the responding Party may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the inquiring Party to act.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials, the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the Party responding to the information request may make the diskette or such electronic medium available to the other Party and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all formulae intact, and will not be entirely converted to values prior to submission.

A Party shall not be required, in a response to an information request, to provide data that are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part IV below. The responding Party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting Party to locate and copy the document. In addition, a Party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A Party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a Party claims that information requested is confidential, and withholds production of all or a portion of



such confidential information, the Party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the Party if the information were disclosed); and (3) state whether the Party is willing to provide the confidential information pursuant to a protective order governing this docket. A Party seeking production of documents notwithstanding a Party's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each Party to information requests shall adhere to a uniform system of numbering agreed upon by Parties. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-SOP-IR-1", and a response to this information request shall be referred to and designated as "Response to CA-SOP-IR-1".

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference to the attached responsive document, indicating the name of the respondent for each response.

#### **IV. MATTERS OF PUBLIC RECORD**

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that Young Brothers has filed with the Commission, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to water transportation matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is

available for inspection by the Commission and Parties and further provided that any Party has the right to explain, qualify, or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a Party proffers such document for admission as evidence in this proceeding.

From time to time, Parties may stipulate in writing that such documents, or any portion of such documents, may be introduced into evidence in this proceeding.

**V.  
COPIES OF PLEADINGS, BRIEFS, AND OTHER DOCUMENTS**

Public Utilities Commission  
465 South King Street, First Floor  
Honolulu, HI 96813

Original plus 10 copies

Division of Consumer Advocacy  
Department of Commerce & Consumer Affairs  
335 Merchant Street, Room 326  
Honolulu, HI 96813

2 copies

Young Brothers, Limited  
P. O. Box 3288  
Honolulu, HI 96801

1 copy

All pleadings, briefs, and other documents required to be filed with the Commission shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Section 6-61-15, Hawaii Administrative Rules ("**HAR**"). Copies of all filings shall be sent to the other Party by hand delivery or by U.S. mail, postage prepaid.

In addition, if available, a Party shall provide copies of their filings to the other Party via diskette or e-mail in a standard electronic format that is readily available to Parties. Parties agree to use, as much as practicable, Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a Party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word

2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing is delivered to a Party via diskette or e-mail, unless otherwise agreed to by such Party, the same number of copies of such filing, information request, or information request response must still be delivered to such Party by hand delivery or via facsimile as provided in Part V above.

## **VI. COMMUNICATIONS**

Section 6-61-29, Hawaii Administrative Rules, concerning *ex parte* communications is applicable to any communications between a Party and the Commission. However, a Party may communicate with Commission counsel through its own counsel or designated official only as to matters of process and procedure.

Communications between Parties shall either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on other Parties as provided in Part V above.

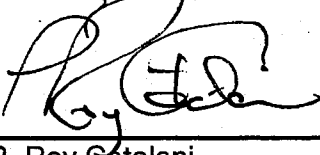
## **VI. GENERAL**

The foregoing procedures shall be applied in a manner consistent with the orderly conduct of this proceeding. Pursuant to HAR § 6-61-37, this Stipulation for Prehearing Order shall control the subsequent course of the proceeding, unless modified by Parties in writing or to prevent manifest injustice, subject to the Commission's approval.

This Stipulation for Prehearing Order may be executed by Parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

DATED: Honolulu, Hawaii, February 16, 2006

YOUNG BROTHERS, LIMITED



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P. Roy Catalani  
Vice President of Strategic Planning  
and Government Affairs

DIVISION OF CONSUMER ADVOCACY



---

Catherine P. Awakuni  
Executive Director

APPROVED AND SO ORDERED AT HONOLULU, HAWAII \_\_\_\_\_

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By \_\_\_\_\_  
Carlito P. Caliboso, Chair

By \_\_\_\_\_  
John E. Cole, Commissioner

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Azama  
Commission Counsel

Docket No. 2006-0396, *In re Young Brothers*, Application for Approval of a General Rate Increase, Rate Restructuring, Fuel Price Adjustment Clause, and Other Tariff Changes,  
**STIPULATION FOR PREHEARING ORDER**

**EXHIBIT "A"**  
**STIPULATED REGULATORY SCHEDULE<sup>1</sup>**  
**Docket No. 2006-0396**

<u>DATE</u>	<u>PROCEDURAL STEPS</u>
1. Friday, December 15, 2006	Application filed with the Commission
2. Friday, January 26, 2007	Order No. 23222 issued suspending Application and initiating an investigation
3. Tuesday, February 13, 2007	Public hearing in Honolulu, Oahu, Hawaii
4. Wednesday, February 14, 2007	Public hearing in Hilo, Hawaii
5. Thursday, February 15, 2007	Public hearing in Kona, Hawaii
6. Monday, February 26- Wednesday, March 28, 2007	Consumer Advocate information requests ( <b>IRs</b> ) to YB on a rolling basis
7. Tuesday, February 27, 2007	Public hearing in Lihue, Kauai, Hawaii
8. Wednesday, February 28, 2007	Public hearing in Kahului, Maui, Hawaii
9. Thursday, March 1, 2007	Public hearing in Kaunakakai, Molokai, Hawaii
10. Friday, March 2, 2007	Public hearing in Lanai City, Lanai, Hawaii
11. Monday, March 12-Wednesday, April 11, 2007	Young Brothers to submit responses to outstanding IRs within two weeks of IR issuance, but in no event later than April 11, 2007
12. Monday, April 16, 2007	Consumer Advocate testimonies, exhibits, and workpapers
13. Wednesday, April 18- Wednesday, April 25, 2007	Young Brothers IRs to Consumer Advocate on a rolling basis
14. Friday, April 27-Friday, May 4, 2007	Consumer Advocate to submit responses to YB's IRs on a rolling basis, but in no event later than April 20, 2007
15. Friday, May 25, 2007	Young Brothers rebuttal testimonies, exhibits, and workpapers

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<sup>1</sup> This Stipulated Regulatory Schedule assumes that the only parties in this proceeding are the signatories of the Stipulation for Prehearing Order. An amended Stipulation for Prehearing Order, including an amended Stipulated Regulatory Schedule, will be submitted, if required by the addition of other parties or participants to this proceeding.

<u>DATE</u>	<u>PROCEDURAL STEPS</u>
16. Thursday, May 31-Wednesday, June 6, 2007	Consumer Advocate to submit rebuttal information requests ( <b>RIRs</b> ) to Young Brothers on a rolling basis
17. No later than Monday, June 18, 2007	Young Brothers to submit responses to outstanding RIRs as soon as they are available, but in no event later than May 14, 2007
18. Monday, June 25, 2007	Stipulation on issues by Parties <sup>2</sup>
19. Wednesday, June 27, 2007	Prehearing conference, if necessary
20. Week of July 2, 2007	Evidentiary hearing, unless waived by Parties <sup>3</sup>
21. Friday, July 27, 2007	Simultaneous opening briefs by Parties
22. Monday, August 6, 2007	Simultaneous reply briefs by Parties, if necessary <sup>4</sup>
23. Friday, August 31, 2007	Parties request a decision and order by this date. <sup>5</sup>
24. Tuesday, September 18, 2007	Effective date of any rate increase

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<sup>2</sup> Parties reserve their right to engage in settlement discussions at any time on any of the disputed issues pursuant to section 91-9(d), Hawaii Revised Statutes, and HAR § 6-61-35, including the right to waive the evidentiary hearing in this proceeding. Parties will promptly notify the Commission of any settlement and revise the Stipulated Regulatory Schedule as necessary.

<sup>3</sup> See n.2 *supra*.

<sup>4</sup> In Order No. 23222, the Commission ruled that any increase in rates approved in this proceeding shall take effect no earlier than September 18, 2007. Under Order No. 23222 and other circumstances specific to this proceeding, Parties stipulate that Commission action required under section 271G-17, Hawaii Revised Statutes, and section 6-65-40, Hawaii Administrative Rules, within six months of its suspension order (Order No. 23222) is waived for this proceeding only.

<sup>5</sup> Parties request a decision and order by this date so that YB can provide its customers with two and one-half weeks' notice prior to the effective date of any new rates.

CERTIFICATE OF SERVICE

I hereby certify I have this date served a copy of the foregoing STIPULATION FOR  
PREHEARING ORDER NO. \_\_\_\_\_ upon the following persons, by causing  
a copy hereof to be mailed, postage prepaid and properly addressed to each such person:

CATHERINE P. AWAKUNI  
EXECUTIVE DIRECTOR, DIVISION OF CONSUMER ADVOCACY  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813

P. ROY CATALANI  
VICE PRESIDENT OF STRATEGIC PLANNING AND  
GOVERNMENT AFFAIRS  
YOUNG BROTHERS, LIMITED  
P. O. Box 3288  
Honolulu, Hawaii 96801

\_\_\_\_\_  
Karen Higashi

DATED: \_\_\_\_\_



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23311 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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

P. ROY CATALANI  
VICE PRESIDENT OF STRATEGIC PLANNING  
AND GOVERNMENT AFFAIRS  
YOUNG BROTHERS, LIMITED  
P. O. Box 3288  
Honolulu, HI 96801

J. DOUGLAS ING, ESQ.  
WRAY H. KONDO, ESQ.  
WATANABE ING & KOMEIJI  
First Hawaiian Center  
999 Bishop Street, 23<sup>rd</sup> Floor  
Honolulu, HI 96813

Counsel for YOUNG BROTHERS, LIMITED

  
\_\_\_\_\_  
Karen Higashi

DATED: MAR 16 2007