

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. 23504

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

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RECEIVED

Filed June 22, 2007

At 8 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.

Karen Higashi

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ORDER

By this Order, the commission: (1) denies the oral request of YOUNG BROTHERS, LIMITED ("Young Brothers") and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"),¹ to reschedule the evidentiary hearing, from July 2, 2007 to July 25, 2007; and (2) on its own motion, reschedules the evidentiary hearing, from July 2, 2007 to July 5, 2007. In addition, the commission issues this prehearing order as a result of the prehearing conference held on June 19, 2007, in preparation for the evidentiary hearing scheduled to commence on July 5, 2007.

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

I.

Background

Order No. 23311, filed on March 16, 2007, as amended on April 10, 2007,² sets forth the procedural schedule to govern this proceeding. Pursuant thereto: (1) the deadline for Young Brothers to file its responses to the Consumer Advocate's rebuttal information requests was June 18, 2007; (2) the prehearing conference was scheduled for June 21, 2007;³ (3) the deadline for the Parties to file a settlement agreement, if any, was June 25, 2007; and (4) the evidentiary hearing is scheduled for the week of July 2, 2007, to commence on July 2, 2007.⁴

A status conference with the commission was held on June 19, 2007, pursuant to the Parties' request.⁵ At the status conference, the Consumer Advocate, on behalf of the Parties, orally requested that the evidentiary hearing be rescheduled from July 2, 2007 to July 25, 2007, in order to provide the Parties with additional time to discuss the possibility of reaching a settlement agreement on some or all of the outstanding issues,

²See Commission letter, dated April 10, 2007.

³See Commission letter, dated May 31, 2007; and Commission letter, dated June 5, 2007.

⁴See Notice of Evidentiary Hearing, dated June 12, 2007.

⁵The Parties were represented by Mr. P. Roy Catalani, Vice President of Strategic Planning and Government Affairs for Young Brothers, and Ms. Catherine P. Awakuni, Consumer Advocate. On June 18, 2007, the Parties, through the Consumer Advocate, orally requested a meeting with the commission to discuss the status of this docket.

thus rendering moot the need for an evidentiary hearing.⁶ Based on the Parties' oral agreement, the prehearing conference was also held in conjunction with the status conference.⁷

II.

Discussion

Consistent with the agreements reached and actions taken at the status and prehearing conference, and unless modified otherwise by the commission, the following terms shall control the evidentiary hearing and the remaining course of this proceeding:

1. The Parties' oral request to reschedule the evidentiary hearing, from July 2, 2007 to July 25, 2007, is denied. Instead, the commission, on its own motion, reschedules the evidentiary hearing from July 2, 2007 to July 5, 2007, consistent with Exhibit 1 of Order No. 23311, which provides that the evidentiary hearing is scheduled for the week of July 2, 2007. Specifically, the evidentiary hearing is now scheduled to commence on July 5, 2007, 9:00 a.m., at the commission's hearing room.

⁶The Consumer Advocate noted in part that: (1) it needed time to review the responses to the rebuttal information requests filed by Young Brothers on June 18, 2007; and (2) it was also working on other docketed matters.

The July 25, 2007 date was selected by the Parties as the next available date to hold the evidentiary hearing, based on their understanding of the commission's schedule for July 2007.

⁷The prehearing conference was held pursuant to HAR § 6-61-36. The commission issues this prehearing order, in accordance with HAR § 6-61-37.

2. In conjunction with the rescheduling of the evidentiary hearing, the commission grants the Parties' oral request to extend the deadline for the Parties to file their settlement agreement, if any, with the commission. The new deadline date, as set by the commission, is June 29, 2007.

3. The Parties waive the issuance of a new Notice of Evidentiary Hearing by the commission, with service by certified mail. Instead, this Order shall constitute written notice to the Parties of the new date of the evidentiary hearing.

4. Based on the Parties' agreement, the evidentiary hearing is scheduled for two days, July 5 and 6, 2007.

5. Young Brothers submitted written testimonies from nine witnesses, while the Consumer Advocate submitted written testimonies from three witnesses. The Parties agree to work out the number of witnesses each party calls to testify, and the time limit allotted per witness testimony, and will inform the commission accordingly of their agreement.

6. The order of witness presentation shall be Young Brothers first, followed by the Consumer Advocate. Any witnesses called to testify shall be limited to orally summarizing his or her written testimony, and must be available for cross-examination.

7. The Parties waive opening statements and closing arguments.

8. The Parties hearing exhibits shall be pre-marked as YB Hearing Exhibit __, and CA Hearing Exhibit __, as applicable.

9. Paragraph 18 of Stipulated Protective Order No. 23146, filed on December 18, 2006, provides that at any commission hearing where information designated as confidential is discussed, such hearing "shall be held *in camera*, or under other conditions imposed by the Commission to prevent unnecessary public disclosure of such information."

Consistent with the commission's stated preference, the Parties will use their best efforts to present their cases without disclosing or referring to information designated as confidential, thereby avoiding the closing of any portion of the evidentiary hearing. The Parties shall inform the commission in advance of their intent to request that any portion of the evidentiary hearing be held in camera.

10. The deadline dates for the simultaneous filing of the Parties' post-hearing briefs remain unchanged: (A) July 27, 2007, opening briefs; and (B) August 6, 2007, reply briefs.

11. The prehearing conference, scheduled for June 21, 2007, is cancelled as moot.

III.

Orders

THE COMMISSION ORDERS:

1. The Parties' oral request to reschedule the evidentiary hearing, from July 2, 2007 to July 25, 2007, is denied. Instead, the commission, on its own motion, reschedules the evidentiary hearing from July 2, 2007 to July 5, 2007,

consistent with Exhibit 1 of Order No. 23311, which provides that the evidentiary hearing is scheduled for the week of July 2, 2007. Specifically, the evidentiary hearing is now scheduled to commence on July 5, 2007, 9:00 a.m., at the commission's hearing room. Two days, July 5 and 6, 2007, are scheduled for the evidentiary hearing.

2. The Parties' oral request to extend the deadline for the Parties to file their settlement agreement, if any, with the commission, is granted. The new deadline date, as set by the commission, is June 29, 2007.

3. The terms set forth in this Order shall govern the evidentiary hearing and the remainder of this proceeding, unless modified or ordered otherwise by the commission.

4. The prehearing conference, scheduled for June 21, 2007, is cancelled as moot.

DONE at Honolulu, Hawaii JUN 22 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

2006-0396.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23504 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
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Karen Higashi

DATED: JUN 22 2007