

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
YOUNG BROTHERS, LIMITED)
For Approval of Tariff Changes to)
Reflect 2008 Zone Practice Rate)
Increase Pursuant to Decision and)
Order No. 24139)

TRANSMITTAL NO. 08-0005

DECISION AND ORDER

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STATE OF HAWAII

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COMMISSION

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In the Matter of the Application of)	
YOUNG BROTHERS, LIMITED)	Transmittal No. 08-0005
For Approval of Tariff Changes to)	
Reflect 2008 Zone Practice Rate)	
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Order No. 24139)	
_____)	

DECISION AND ORDER

By this Decision and Order, the commission approves an across-the-board 5.5 percent increase in rates for YOUNG BROTHERS, LIMITED ("Young Brothers"), as reflected in its Transmittal No. 08-0005, filed on June 17, 2008.¹

I.

Background

Young Brothers is a water carrier authorized to transport property by barge between the islands of Oahu, Hawaii, Kauai, Maui, Molokai, and Lanai. Young Brothers' intrastate water carrier operations are subject to

¹Transmittal No. 08-0005, Application of Young Brothers for Approval of Tariff Changes to Reflect 2008 Zone Practice Rate Increase Pursuant to Decision and Order No. 24139; Exhibits; Verification; and Certificate of Service, filed on June 17, 2008, as supplemented by Young Brothers' confidential pages, filed on June 17, 2008 (collectively, "Transmittal No. 08-0005"). Young Brothers served copies of its transmittal upon the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("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).

the commission's jurisdiction. The shipment of goods under its regulated water carrier service is governed by its Local Freight Tariff No. 5-A.

On April 9, 2008, the commission, in In re Young Bros., Ltd., Docket No. 01-0255 ("Docket No. 01-0255"), approved with certain modifications, the Stipulation Between Young Brothers, Limited and the Division of Consumer Advocacy Regarding Young Brothers' Rate Flexibility Within a Reasonable Zone (the "2007 Stipulation").² Order No. 24179, filed on May 7, 2008, in Docket No. 01-0255, sets forth the parameters of the New Zone Practice for Young Brothers (the "New Zone"), which were approved by the commission in Decision and Order No. 24139.

On June 17, 2008, Young Brothers filed Transmittal No. 08-0005, requesting an across-the-board 5.5 percent increase in its rates, based on the 2008 calendar test year ("Test Year"). Young Brothers filed its transmittal pursuant to HRS §§ 271G-16 and 271G-17, HAR §§ 6-61-94, 6-65-5, and 6-65-30, and the parameters of the New Zone. The proposed effective date of Young Brothers' transmittal is August 1, 2008.

On July 18, 2008, Young Brothers filed its responses to the commission's information requests. No protest of Young Brothers' transmittal was filed by the Consumer Advocate or any other person.

²Docket No. 01-0255, Decision and Order No. 24139, filed on April 9, 2008.

II.

Discussion

The commission's findings and conclusions with respect to the New Zone, as reflected in Decision and Order No. 24139, include:

4. As part of the Zone Practice, Young Brothers will continue to: (A) comply with HRS § 271G-17(b), which provides in relevant part that no change shall be made in any rate except after 45-days' notice of the proposed rate change is filed and posted; and (B) submit its financial information in support of any request made under the New Zone, based on its most recent cost of service study. The Consumer Advocate, in turn, will continue to review Young Brothers' proposal and recommend the suspension of the proposed rate change if there are any concerns that cannot be resolved within the 45-day review period. Moreover, the commission's authority to reject or deny a Zone Filing remains unaffected under the New Zone.

5. The New Zone, as reflected in the 2007 Stipulation, appears to provide customers with the appropriate safeguards to ensure that any changes in rates authorized by the commission are just and reasonable, and will not result in Young Brothers "over earning," i.e., earning more than its authorized rate of return of 10.76 percent.

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7. In accordance with HRS §§ 271G-2 and 271G-16(e), the continuation of the Zone Practice appears just, reasonable, and consistent with the public interest of: (A) promoting safe, adequate, economical, and efficient water transportation service by Young Brothers, at the lowest cost consistent with the furnishing of the service; (B) providing sufficient revenues to enable Young Brothers, under honest, economical, and efficient management, to provide water transportation service; and (C) "encourag[ing] the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or

unfair or destructive competitive practices, all to the end of developing, coordinating, and preserving a sound transportation system by water."

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9. Based on the above-noted findings and conclusions, rate changes proposed by Young Brothers that fall within the range of the New Zone, as modified herein, are presumptively just and reasonable, which is, however, a rebuttable presumption.

10. The Zone, which was initially established as a pilot program, expired on December 20, 2007. The commission, pursuant to HRS chapter 271G, establishes the New Zone, which shall take effect from the date of this Decision and Order. Contrary to the Parties' request, the New Zone will not retroactively apply to January 1, 2008. Instead, the New Zone will take effect on a prospective basis, from the date of this Decision and Order [i.e., April 9, 2008].

Decision and Order No. 24139, at 24-25 and 27-28 (footnote and text therein omitted).

For purposes of this Decision and Order, the relevant parameters of the New Zone include:

1. Commencing April 9, 2008, the effective date of the New Zone, Young Brothers is authorized to seek a maximum overall rate increase of 5.5 percent, with a maximum increase of 5.5 percent for any customer class. Should Young Brothers seek to increase its rates pursuant to the New Zone during 2008, the effective date of any such increase in rates shall be no earlier than August 1, 2008.

2. As part of its request under a Zone Filing, Young Brothers must: (A) continue to comply with the forty-five day notice period set forth in HRS § 271G-17(b), and during this notice period, the Consumer Advocate will have the

opportunity to review Young Brothers' proposal and recommend suspension of the proposed changes if there are any concerns that cannot be resolved within the notice period; and (B) provide certain financial statements and information, including information on the impact of the proposed changes to Young Brothers' authorized rate of return for the test year.

In support of its request, Young Brothers states:

1. In general, Young Brothers' operating expenses have increased without a compensatory increase in its projected revenues for the Test Year.

2. Two newly built barges will be placed into service during the Test Year, the Maka'ala and Kala'e Nalu. The total capital investment in both barges is approximately \$19.4 million.

3. Without the requested rate relief, Young Brothers projects a rate of return of approximately 6.08 percent. This rate of return "is insufficient to provide Young Brothers with a fair return on its investments and to continue reinvestment and improvement of its reliability and service to customers."³

4. The proposed increase in rates will provide a projected rate of return of 9.64 percent on its average depreciated rate base for the Test Year, which is still below its authorized rate of return of 10.76 percent.

5. "Young Brothers' long-term success relies chiefly upon providing its customers with responsive, reliable service at a reasonable price. Young Brothers' continued contribution to the State's development of a diversified and globally competitive

³Transmittal No. 08-0005, at 37.

economy requires that [it] maintain its financial and operational health and its ability to attract investment in its future."⁴

Rate increases proposed by Young Brothers that fall within the range of the New Zone, i.e., within the 5.5 percent upper threshold, are presumptively just and reasonable, which is, however, a rebuttable presumption. Here, the commission finds that the proposed across-the-board 5.5 percent increase in rates appears just and reasonable. As sufficiently justified by Young Brothers, the proposed increase in rates will provide Young Brothers with the opportunity to: (1) earn a rate of return of 9.64 percent, which is still more than one percent below its authorized rate of return of 10.76 percent; and (2) recover its operational expenses, which have increased during the course of the Test Year. Moreover, as confirmed by Young Brothers, the financial data filed in support of its transmittal is normalized for ratemaking purposes. Accordingly, the commission approves the across-the-board 5.5 percent increase in rates proposed by Young Brothers, as set forth in Transmittal No. 08-0005.⁵

⁴Transmittal No. 08-0005, at 38.

⁵In re Young Bros., Ltd., Transmittal No. 06-0002, Decision and Order No. 22856, filed on September 15, 2006 (approving an across-the-board 5.5 percent increase in Young Brothers' rates, pursuant to the previous Zone); and In re Young Bros., Ltd. (approving a three percent rate increase in Young Brothers' non-containerized commodity rates, pursuant to the previous Zone).

III.

Orders

THE COMMISSION ORDERS:

1. The across-the-board 5.5 percent increase in rates proposed by Young Brothers, as set forth in Transmittal No. 08-0005, filed on June 17, 2008, is approved, effective from August 1, 2008.

2. Notwithstanding the approval of Young Brothers' transmittal herein, the terms and conditions set forth in Decision and Order No. 24139 and Order No. 24179, filed in Docket No. 01-0255, shall continue in effect until further order of the commission.

DONE at Honolulu, Hawaii JUL 29 2008.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

APPROVED AS TO FORM:

Michael Azama

Michael Azama
Commission Counsel

By John E. Sole
John E. Sole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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