

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
YOUNG BROTHERS, LLC) TRANSMITTAL NO. 20-0003
For Approval of Emergency Changes)
to its Sailing Schedule.)
_____)

ORDER NO. 37166

APPROVING A BRIEF EXTENSION AND ADJUSTMENTS TO YOUNG BROTHERS'
TEMPORARY, EMERGENCY CHANGES TO ITS SAILING SCHEDULE

(2) A 30-day extension effective June 12, 2020,⁴ of the sailing schedule changes originally set forth in Transmittal No. 20-0003 regarding the sailing schedule from Honolulu to Kahului, Maui, which eliminated the Wednesday sailing out of Honolulu (reducing three weekly sailings from Honolulu to Kahului down to two weekly sailings), and resulted in the following:

- Monday afternoon departure from Honolulu, and a Tuesday morning arrival in Kahului; and
- Thursday afternoon departure from Honolulu, and a Friday morning arrival in Kahului;⁵ and

(3) YB's requested new sailing schedule adjustments, set forth in its Transmittal No. 20-0003 June 3 Modification Request, for 30 days, effective June 12, 2020, which (a) change YB's sailing between Honolulu and Hilo from a Tuesday departure from Honolulu, to a Saturday departure from Honolulu, such that the barge will arrive in Hilo on Monday, (b) add a second weekly sailing to Kaunakakai, and (c) change YB's barge arrival in Kaunalapau to Wednesday (instead of Sunday).⁶

("Order No. 37128"), available at: [https://puc.hawaii.gov/wp-content/uploads/2020/05/TRANSMITTAL-NO.-20-0003.YB .pdf](https://puc.hawaii.gov/wp-content/uploads/2020/05/TRANSMITTAL-NO.-20-0003.YB.pdf).

⁴To align the expiration of this sailing schedule change with the others discussed in 3), below.

⁵See Tariff Transmittal No. 20-0003 at 7.

⁶See Letter Re: "YB Tariff Transmittal No. 20-0003, Young Brothers, LLC, for Approval of Emergency Changes to its Sailing Schedule - Modification to Adjusted Sailing Schedule," filed on June 3, 2020, requesting modifications to its sailing schedule change extension request, filed on May 28, 2020 ("Transmittal

I.

PROCEDURAL HISTORY

On April 24, 2020, YB filed its short-notice Transmittal pursuant to Hawaii Administrative Rules ("HAR") §§ 16-601-111 and -112 and §§ 16-605-5, -30, -40, and -41, seeking Commission authority to modify its Commission-approved sailing schedule, as follows:

1. Sailings between Honolulu and Kahului will be reduced from three sailings to two, where the Wednesday/Thursday (from Honolulu to Kahului) and Thursday/Friday (from Kahului to Honolulu) sailings will be eliminated.
2. Sailings between Honolulu and Hilo will be reduced from two sailings to one, where the Saturday/Monday (from Honolulu to Hilo) and Monday/Wednesday (from Hilo to Honolulu) sailings will be eliminated.
3. Sailings between Honolulu and Kaunakakai will be reduced from two sailings to one as well as modifying the days of departures and arrivals, where the Sunday/Monday and Tuesday/Thursday (from Honolulu to Kaunakakai) and Monday/Tuesday and Wednesday/Thursday (from Kaunakakai to Honolulu) sailings will be eliminated and replaced with Saturday/Sunday (from Honolulu to Kaunakakai) and Sunday/Monday (from Kaunakakai to Honolulu) sailings.
4. Sailings between Honolulu and Kaumalapau will be modified by changing the one sailing from a Tuesday/Wednesday (Honolulu to Kaumalapau) and Wednesday/Thursday (Kaumalapau to Honolulu) to Saturday/Sunday (Honolulu to Kaumalapau) and Sunday/Sunday (Kaumalapau to Honolulu) sailings.

No. 20-0003 June 3 Modification Request"), at 1-3, available at: <https://puc.hawaii.gov/main/yb-tariff-transmittal-no-20-0003-for-approval-of-emergency-changes-to-its-sailing-schedule/>.

YB requested an effective date of May 5, 2020, for the changes to its sailing schedule.

In Order No. 37128, filed on May 4, 2020, the Commission temporarily and conditionally approved Young Brothers' emergency request to change its sailing schedule as set forth in Transmittal No. 20-0003 for a 30-day period.⁷ During that 30-day period, the Commission required YB to provide additional information to the Commission based on questions raised by the Consumer Advocate, which included updates on YB's financial condition and actions it is taking to minimize impacts on Neighbor Island customers.

On May 22, 2020, YB submitted a report providing the Commission with information about its financial condition pursuant to Order No. 37128.⁸

On May 28, 2020 YB filed its request to extend the sailing schedule temporarily approved in Order No. 37128, for a ninety (90) day period, stating that "the continuation of the adjusted sailing schedule is critical and necessary to help

⁷See Order No. 37128, available at: <https://puc.hawaii.gov/wp-content/uploads/2020/05/TRANSMITTAL-NO.-20-0003.YB.pdf>.

⁸"YB Report Pursuant to Order No. 37128," filed on May 22, 2020. Previously, YB had also submitted a "Response to COVID-19 Financial and Procedural Update Request," on May 5, 2020, in Docket No. 2019-0117, which also provided the Commission with information regarding its financial condition.

mitigate against the impending cash shortfall and the severe losses that Young Brothers is projected to suffer through at least 2020.”⁹

However, on June 3, 2020, YB filed its Transmittal No. 20-0003 June 3 Modification Request, requesting new sailing schedule adjustments which would (1) change the date of its sailing between Honolulu and Hilo from a Tuesday departure from Honolulu, to a Saturday departure from Honolulu, such that the barge arrives in Hilo on Monday, (2) add a second weekly sailing to Kaunakakai, and (3) change its arrival in Kaumalapau to Wednesday (instead of Sunday).¹⁰

Also on June 3, 2020, the Consumer Advocate filed its Statement of Position regarding YB’s Transmittal No. 20-0003 June 3 Modification Request.¹¹

⁹Transmittal No. 20-0003 May 28 Extension Request at 2. Separately, on June 2, 2020, the Commission filed Order No. 37161 in Docket No. 2020-0084, instituting an investigation into YB’s current financial condition, including to address its current access to funding and contingency plans in light of its dire financial situation.

¹⁰See Transmittal No. 20-0003 June 3 Modification Request.

¹¹“Division of Consumer Advocacy’s Statement of Position re: YB’s Transmittal No. 20-0003 June 3 Modification Request,” filed on June 3, 2020 (“CA June 3 SOP”), available at: <https://puc.hawaii.gov/main/yb-tariff-transmittal-no-20-0003-for-approval-of-emergency-changes-to-its-sailing-schedule/>.

II.

DISCUSSION

A.

Legal Standard

In Transmittal No. 20-0003, Young Brothers cited HAR §§ 16-601-111 and -112 and §§ 16-605-5, -30, -40, and -41 as the relevant authority for the Commission's review of its requested relief. In Order No. 37128, the Commission found that it had the authority to grant the requested relief in an expedited manner, pursuant to Hawaii Revised Statutes ("HRS") § 271G-17(b), which states that "[t]he [C]ommission may in its discretion and for good cause shown allow [a tariff] change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions." HAR § 16-605-41(a) further states:

Short notice tariff filing. (a) The commission may grant a request for a change or addition to tariffs on less than forty-five days' notice if it finds that an emergency exists and the applicant carrier has proven that any delay in implementing the change or addition will result in substantial damage to the carrier or its shipper. The carrier shall include in its application a full statement of the need for implementing the change or addition on less than forty-five days' notice.

As noted above, in Order No. 37128, the Commission directed YB, by May 22, 2020, to file a report with the Commission

(served on the Consumer Advocate) detailing the information that the Consumer Advocate requested in its Statement of Position regarding Transmittal No. 20-0003.¹² The Commission stated that it would review this information, along with the updated information regarding YB's financial condition filed in Docket No. 2019-0117 (and any additional information it may find necessary to request from YB regarding its financial condition), to determine whether the sailing schedule changes approved pursuant to Transmittal No. 20-0003 were justified in continuing beyond the thirty (30) day period set forth in Order No. 37128.¹³

B.

Commission's Decision

YB's original Transmittal No. 20-0003 filing emphasized that cargo volumes have increasingly declined since Governor Ige's March 23, 2020, "State at Home" proclamation.¹⁴ In YB's latest

¹²Order No. 37128 at 15-16.

¹³Order No. 37128 at 15-16.

¹⁴Transmittal No. 20-0003 at 6. On May 18, 2020, Governor Ige issued his Eighth Supplementary Emergency Proclamation, amending and restating all prior COVID-19 related State emergency proclamations to support ongoing State and County responses, until June 30, 2020. "Eighth Supplementary Proclamation Related to the COVID-19 Emergency," available at: <https://governor.hawaii.gov/wp-content/uploads/2020/05/2005088-ATG-Eighth-Supplementary-Proclamation-for-COVID-19-distribution-signed.pdf>.

May 28, 2020, letter to the Commission, YB states that its "financial situation is still extremely dire, and the continuation of the adjusted sailing schedule is critical and necessary to help mitigate against the impending cash shortfall and the severe losses that Young Brothers is projecting to suffer through at least 2020."¹⁵ However, as noted above, on June 3, 2020, YB filed its Transmittal No. 20-0003 Modification Request, which would (1) change its sailing between Honolulu and Hilo from a Tuesday departure from Honolulu, to a Saturday departure from Honolulu, such that the barge arrives in Hilo on Monday, (2) add a second weekly sailing to Kaunakakai, and (3) change its arrival in Kaunalapau to Wednesday (instead of Sunday).¹⁶

Given this update, and pursuant to HRS § 271G-17(b) and HAR § 16-605-41(a),¹⁷ the Commission approves (1) through June 11, 2020, the sailing schedule changes established via Order No. 37128, originally set forth in Tariff Transmittal No. 20-0003; (2) a 30-day extension, effective June 12, 2020,¹⁸ of the sailing

¹⁵Transmittal No. 20-0003 May 28 Extension Request at 2.

¹⁶Transmittal No. 20-0003 June 3 Modification Request at 1-3.

¹⁷The Commission notes here the emergency conditions, related to both the COVID-19 Pandemic and YB's current financial situation, under which the May 28 Extension and June 3 Modification Requests arise.

¹⁸ As noted above, this is to align the expiration of this sailing schedule change with the others discussed in 3), below.

schedule change originally set forth in Tariff Transmittal No. 20-0003 for YB's sailings to Kahului, Maui, which eliminated the Wednesday sailing out of Honolulu (reducing three weekly sailings from Honolulu to Kahului down to two weekly sailings), and resulted in the following:

- Monday afternoon departure from Honolulu, and a Tuesday morning arrival in Kahului; and
- Thursday afternoon departure from Honolulu, and a Friday morning arrival in Kahului;¹⁹ and

(3) Effective June 12, 2020, YB's requested new sailing schedule adjustments, set forth in its Transmittal No. 20-0003 June 3 Modification Request, for 30 days, which (a) change YB's sailing between Honolulu and Hilo from a Tuesday departure from Honolulu, to a Saturday departure from Honolulu, such that the barge arrives in Hilo on Monday, (b) add a second weekly sailing to Kaunakakai, and (c) change YB's barge arrival in Kaumalapau to Wednesday (instead of Sunday). However, as raised in the Consumer Advocate's June 3 SOP, the Commission also directs YB to file with the Commission (and serve a copy on the Consumer Advocate) a report detailing the costs associated with the sailing schedule changes set forth in YB's Transmittal No. 20-0003 June 3 Modification Request, as approved in this Order, by June 29, 2020.

¹⁹Tariff Transmittal No. 20-0003 at 7.

The Commission approves the temporary sailing schedule extension and adjustments set forth above, and will assess whether to extend the sailing schedule pending receipt of information regarding whether YB will receive the financial support it requests during the upcoming Legislative session, scheduled to open on June 15, 2020,²⁰ which could serve to put YB in an improved position to re-expand its sailing schedule, services, and make additional improvements, to better serve its customers.

III.

ORDERS

THE COMMISSION ORDERS:

1. The Commission approves through June 11, 2020, the sailing schedule changes established via Order No. 37128, originally set forth in Tariff Transmittal No. 20-0003.

2. The Commission approves, effective June 12, 2020 for 30 days, an extension of the sailing schedule change originally set forth in Tariff Transmittal No. 20-0003 for YB's sailings from Honolulu to Kahului, Maui, which eliminated the Wednesday sailing

²⁰See YB "Notice Regarding Young Brothers, LLC's [] Liquidity Crisis and Potential Suspension of Operations," filed on May 26, 2020, available at: <https://puc.hawaii.gov/wp-content/uploads/2020/05/YB-Letter-to-PUC-05.26.2020.pdf>, stating that "unless immediate relief is obtained from the State of Hawaii [] (e.g., CARES Act funding), Young Brothers will face a cash shortfall very shortly." Id. at 1.

out of Honolulu (reducing three weekly sailings from Honolulu to Kahului down to two weekly sailings), and resulted in the following:

- Monday afternoon departure from Honolulu, and a Tuesday morning arrival in Kahului; and
- Thursday afternoon departure from Honolulu, and a Friday morning arrival in Kahului.²¹

3. Additionally the Commission approves, effective June 12, 2020, for 30 days, YB's requested new sailing schedule adjustments, set forth in its Transmittal No. 20-0003 June 3 Modification Request, which (a) change YB's sailing between Honolulu and Hilo from a Tuesday departure from Honolulu, to a Saturday departure from Honolulu, such that the barge will arrive in Hilo on Monday, (b) add a second weekly sailing to Kaunakakai, and (c) change YB's barge arrival in Kaumalapau to Wednesday (instead of Sunday).²²

4. The Commission directs YB to file with the Commission (and serve a copy on the Consumer Advocate) a report detailing the costs associated with the sailing schedule changes set forth in YB's Transmittal No. 20-0003 June 3 Modification Request, as approved in this Order, by June 29, 2020.

²¹See Tariff Transmittal No. 20-0003 at 7.

²²Transmittal No. 20-0003 June 3 Modification Request at 1-3.

5. The Commission also directs YB to file updated tariff sheets with the Commission reflecting these sailing schedule changes within two business days of the date of this Order.

6. The Commission will issue an order prior July 12, 2020, addressing any further extensions to YB's sailing schedule changes.

DONE at Honolulu, Hawaii JUNE 3, 2020.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By James P. Griffin
James P. Griffin, Chair

By Jennifer M. Potter
Jennifer M. Potter, Commissioner

By Leodoloff R. Asuncion, Jr.
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:

Caroline C. Ishida
Caroline C. Ishida
Commission Counsel

Transmittal No. 20-0003.ljk

CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing order was served on the date of filing by electronic mail addressed to the following parties:

DEAN NISHINA
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
dnishina@dcca.hawaii.gov

JEFFERY T. ONO, ESQ.
DAVID Y. NAKASHIMA, ESQ.
WATANABE ING LLP
JOno@wik.com
DNakashima@wik.com

Counsel for YOUNG BROTHERS, LLC

JEREMIAH ANA
PRESIDENT
YOUNG BROTHERS, LLC
jana@htbyb.com

(Courtesy copy)

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