

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION) (NON-DOCKETED)
)
Emergency Filing and Service)
Procedures for Commission's)
Precautionary Response to COVID-19)
_____)

ORDER NO. 37191

EXTENDING DEFERRAL OF APPLICATION AND ASSESSMENT OF PENALTIES
AND INTEREST FOR MOTOR CARRIER
ANNUAL FILINGS AND ANNUAL FINANCIAL REPORTS

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EXTENDING DEFERRAL OF APPLICATION AND ASSESSMENT OF PENALTIES
AND INTEREST FOR MOTOR CARRIER
ANNUAL FILINGS AND ANNUAL FINANCIAL REPORTS

By this Order, the Public Utilities Commission ("Commission") will extend the deferral of the application and assessment of penalties and interest applied to motor carriers pursuant to Hawaii Administrative Rules ("HAR") §§ 6-62-24 and 6-62-42, as originally provided for in Order No. 37046,¹ through August 31, 2020, such that the application and assessment of penalties and interest is further deferred from July 1, 2020, to September 1, 2020.

¹In re Public Util. Comm'n, Order No. 37046, "Regarding Penalties for Motor Carriers Annual Filings and Annual Financial Reports," filed March 19, 2020 (Non-Docketed) ("Order No. 37046").

I.

BACKGROUND

On March 19, 2020, the Commission issued Order No. 37046, which announced that the Commission would defer the application and assessment of penalties and interest applied to motor carriers pursuant to HAR §§ 6-62-24 and 6-62-42 until July 1, 2020, in recognition of the challenges and disruptions associated with the unprecedented measures taken by the State to address the COVID-19 pandemic.² Specifically, the Commission announced that it would **“defer the application and assessment of penalties and interest under HAR §§ 6-62-24 and 6-62-42 through June 30, 2020, such that penalties may only be applied and assessed and begin to run against motor carriers who have not filed their annual fees and AFRs as of July 1, 2020.”**³ The Commission further clarified that it “may further defer the application and assessment of penalties and interest under these rules in its discretion, based on the circumstances.”⁴

²See Order No. 37046 at 2-7.

³Order No. 37046 at 6 (emphasis in the original).

⁴Order No. 37046 at 7.

II.

Extending Deferral Of Application And Assessment Of Penalties And Interest Against Motor Carriers

As noted above, the Commission has reserved its authority to extend its deferral of application and assessment of penalties and interest under HAR §§ 6-62-24 and -42 based on the circumstances.

The Commission observes that while the State has begun implementing a phased approach to re-opening the local economy, many preventive measures and social restrictions remain in place at this time.⁵ Additionally, the Commission's "Emergency Filing and Service Procedures Related to COVID-19" remain in place,⁶ including the mandatory requirements for electronic submission of documents and payment. As noted in Order No. 37046, the Commission "recognizes that certain Parties, Participants, utilities, stakeholders, and/or other entities or individuals that conduct business before the [C]ommission, including motor carriers, may

⁵See The Governor's Ninth Supplementary Proclamation Related to the COVID-19 Emergency, posted June 10, 2020, available at <https://governor.hawaii.gov/wp-content/uploads/2020/06/2006097A-ATG-Ninth-Supplementary-Proclamation-COVID-19-distribution-signed.pdf> (last accessed June 30, 2020).

⁶See In re Public Util. Comm'n, Order No. 37043, "Setting Forth Public Utilities Commission Emergency Filing and Service Procedures Related to COVID-19," filed March 13, 2020 (Non-Docketed) ("Order No. 37043").

not be familiar with [C]ommission's eFiling and ePayment processes, and may also be adjusting to communicating with the [C]ommission by email."⁷

Based on the above, the Commission, in its discretion and based on the unique circumstances present here, will extend the deferral of application and assessment of penalties and interest under HAR §§ 6-62-24 and -42 **through August 31, 2020, such that penalties and interest may only be applied and assessed and begin to run against motor carriers who have not filed their annual fees and Annual Financial Reports ("AFRs") by September 1, 2020.** Motor carriers who have filed their annual fees and AFRs on or before August 31, 2020, while beyond the April 30, 2020 deadline,⁸ will not be assessed penalties and interest under either HAR §§ 6-62-24 or -42. Motor carriers who are not compliant as of September 1, 2020, may begin to have penalties and interest assessed against them beginning as of September 1, 2020, pursuant to HAR §§ 6-62-24 and -42, as applicable.

⁷Order No. 37046 at 5-6.

⁸See Hawaii Revised Statutes § 271-36 and HAR §§ 6-62-24 and -42.

The Commission may further defer the application and assessment of penalties and interest under these rules in its discretion.

The Commission reminds all motor carriers that the filing of their annual fees and AFRs must be consistent with Order No. 37043 and be submitted through the Commission's eFiling system. Motor carriers are encouraged to register with the eFiling system and familiarize themselves with it as soon as possible to avoid delay and confusion. Information regarding eFiling and electronic payment of fees is provided below.

Electronic Filing. The Commission's website contains information on how to eFile (<https://puc.hawaii.gov/filing/efiling/>). As set forth on the Commission's website, any entity seeking to eFile must agree with the DMS eFiling Terms of Use (<https://puc.hawaii.gov/wp-content/uploads/2013/06/DMS-EFiling-Terms-of-Use.pdf>) and register online.

The Commission's website (<https://puc.hawaii.gov/filing/efiling/>) contains technical requirements regarding eFiling, as does the accompanying DMS eFile "General Information" document, available at <https://puc.hawaii.gov/wp->

<content/uploads/2013/06/DMS-eFile-General-Information.pdf>.⁹ As set forth in Order No. 37043, during this emergency period, the Commission will not accept hard copies of eFiled documents to be submitted to the Commission, and the Commission's eFiling guidance documents have been amended to reflect that.

Filing Fees. All Commission filing fees required pursuant to HAR § 16-601-24 (for applications, motions, etc.) shall be submitted through the Commission's eFiling system (<https://puc.hawaii.gov/filing/efiling/>). Hawaii One Call Center Payments, Motor Carrier Penalties & Interest, and Public Utility Fees shall be submitted through the Commission's ePayment system (<https://puc.hawaii.gov/filing/payments/>).

Any payments submitted after normal Commission business hours, i.e., 7:45 a.m. to 4:30 p.m. except Saturdays, Sundays, and State of Hawaii holidays, shall not be deemed "filed" until the start of the next Commission business day.

Service of Documents That Parties, Participants, Utilities, Stakeholders, and/or Other Entities eFile With the Commission. Service of all documents filed by any parties, participants, utilities, stakeholders and/or other entities or

⁹In any instances where filing instructions on the Commission's website conflict with the instructions in this Order, this Order supersedes the filing instructions on the website until further notice is given by Commission order.

individuals shall be via email. **All entities making filings before the Commission will be required to supply an email address that can be used for service.** Any Certificates of Service for docketed or other matters that previously had listed the entity's name and the physical address where a document was served via first-class mail, shall instead reflect the entity's representative's name, entity name, email address where served, as well as the date of service.

In the event a party, participant, utility, stakeholder, entity, or individual changes their email address or changes their designated agent of service, they shall promptly notify the Commission of this change and provide a new email address for purposes of effectuating service.

Any applications, petitions, tariff transmittals, etc., filed while Order No. 37043 is in effect shall list the "name, title, and address of the person to whom correspondence or communications in regard to the application are to be addressed[,]"¹⁰ as well as the e-mail address for that person.

Service of Documents By the Commission. The Commission will serve all docketed and non-docketed documents (for example, orders, decisions and orders, information requests, letters,

¹⁰HAR § 16-601-74(B).

notices, etc.) that the Commission generates on parties, participants, utilities, stakeholders, and/or other entities or individuals electronically while this Emergency Procedures set forth in Order No. 37043 are in effect. Service of docketed documents will be effectuated through the Commission's DMS electronic distribution list.¹¹ Parties must subscribe to the Docket Distribution List with a valid email address and will be automatically notified via email when a new filing is made in the docket. Service of non-docketed documents by the Commission will be done by email. Within five (5) business days of the filing of this Order, parties, participants, utilities, stakeholders, and/or other entities, shall notify the Commission at puc@hawaii.gov if they prefer a different email for service than the one(s) where the Emergency Procedures Order was served.

III.

ORDERS

THE COMMISSION ORDERS:

1. The Commission extends the deferral of application and assessment of penalties and interest for motor carrier annual fees and Annual Financial Reports, as set forth in HAR §§ 6-62-24

¹¹See <https://dms.puc.hawaii.gov/dms/Subscribe.jsp>.

and 6-62-42, through August 31, 2020, such that the application and assessment of penalties and interest will not begin until September 1, 2020.

2. The Commission may further defer the application and assessment of penalties and interest under these rules in its discretion.

DONE at Honolulu, Hawaii JUNE 30, 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:

Mark Kaetsu
Mark Kaetsu
Commission Counsel

Non-Docketed Order.ljk

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing electronically to the following entities:

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