

PUC Water Carriers Working Group Meeting

September 17, 2020, 1:30 – 3:30 p.m.

(Virtual Meeting via Zoom)

Meeting Attendees (in alphabetical order)

P = Present; A= Absent

	Name	Title	Company
P	Jay Ana	President	Young Brothers, LLC
P	Vic Angoco	SVP	Matson Navigation Company, Inc.
P	Jesse Andrade	ILWU Member/Unit 4209 Chair	International Longshore and Warehouse Union, Local 142
P	Henry J.C. Aquino	Representative	House District 38 / Chair, House Committee on Transportation
P	Leodoloff (Leo) R. Asuncion	Commissioner	Public Utilities Commission
A	Jade Butay	Director	Department of Transportation
A	Kirk Caldwell	Mayor	City and County of Honolulu
P	Michael Caswell	SVP	Pasha Stevedoring & Terminals L.P.
P	Catherine Awakuni Colón	Director	Department of Commerce and Consumer Affairs
P	Derek J. Chow	Deputy Director	Department of Transportation, Harbors Division
A	Stacey Crivello	Community Liaison	Maui County Mayor's Office
P	Michael Dahilig	Managing Director	Kauai County – Office of the Mayor
A	Mary Alice Evans	Director, Office of Planning	Department of Business, Economic Development & Tourism
P	Lisa Hiraoka	Analyst	Department of Commerce & Consumer Affairs – Division of Consumer Advocacy
P	James P. Griffin	Chair	Public Utilities Commission
A	Justin Gruenstein	Deputy	City and County of Honolulu – Mayor's Office of Climate Change, Sustainability and Resiliency (CCSR)
A	William "Baba" Haole IV	Division Director of Hawaii Longshore Division	International Longshore and Warehouse Union, Local 142
P	Steve Hunt	Deputy Finance Director	Hawaii County
P	Lorraine R. Inouye	Senator	Senate District 4 / Chair, Senate Committee on Transportation

P	Richard Kamoe	Vice Division Director of Hawaii Longshore Division	International Longshore and Warehouse Union, Local 142
P	Gilbert S.C. Keith-Agaran	Senator	Senate District 5 / Senate President designee
A	Harry Kim	Mayor	County of Hawaii
P	Chris Martin	Director of Operations	Young Brothers
P	Reiko Matsuyama	Budget Director	Kauai County – Office of the Mayor
A	Mike McCartney	Director	Department of Business, Economic Development & Tourism
P	Kris Nakagawa	Vice President of External and Legal Affairs	Young Brothers
P	Mark M. Nakashima	Representative	House District 1 / House Speaker designee
P	Dean Nishina	Executive Director / Consumer Advocate	Department of Commerce & Consumer Affairs – Division of Consumer Advocacy
P	Phyllis Shimabukuro-Geiser	Chairperson	Department of Agriculture
A	Michael P. Victorino	Mayor	Maui County
Public Utilities Commission Staff			
P	Jodi Endo Chai	Executive Officer	Public Utilities Commission
P	Michael Chapman	Economist	Public Utilities Commission
P	Amanda Hustrulid	Attorney Trainee	Public Utilities Commission
P	Steven Iha	Consultant	Public Utilities Commission
P	Carolyn Laborte	Acting Chief Auditor	Public Utilities Commission
P	Naomi Landgraf	District Representative – Maui	Public Utilities Commission
P	Andrew Okabe	Utility Analyst	Public Utilities Commission
P	Anand Samtani	Supervising Economist	Public Utilities Commission
P	Gina Yi	Acting Chief Engineer	Public Utilities Commission
Independent Facilitation			
P	Donna R. Ching	Facilitator	Pacific Center for Collaboration
P	Jennifer Cornish Creed	Recorder	Hawai'i Alliance for Nonprofit Organizations (Director of Professional Development)

Welcome

PUC Commissioner Leo Asuncion welcomed attendees and thanked them for attending this second meeting of the Water Carriers Working Group (WG). He invited those new to the group this time to introduce themselves.

Housekeeping

Group Memory

Donna asked if there were any corrections that need to be made to the group memory from the July 31st meeting. There were no corrections suggested.

Chapter 92 Implications

The Resolution is silent on the application of Chapter 92, the Public Meetings law. We sought advice from staff attorneys to see what requirements we needed to meet. What we understand is that in the group memory, we need to record the date, time, place, who is present or absent, what matters are discussed and any other information that anyone asks to get “on the record” during the meeting. This would meet the requirements for documentation. We try to make sure all items we send out are fit for public consumption. The plan is to put the information on the PUC website and additionally have a repository that the WG can access so that whatever you receive will also be available online in this repository.

Q = Question, A = Answer, C = Comment

Q: Can you confirm if there is an obligation to have sign language interpreters? When we started doing Zoom meetings on Hawai‘i Island, the issue came up and we heard we had to have interpreters.

A: Yes, we’ll check on that. If a request came in from a member of this WG, I believe we’d be obligated to provide those services. (ACTION: Check on obligation regarding sign language interpreters.)

Switch from Webex to Zoom

The main reason we switched platforms is that on Zoom we can see more people on the screen at one time. Webex had limitations in that regard. In addition, Zoom allows the host to rename everyone so we can put your full names and organizations in order to make visible to the group who’s representing which entities.

How We Address WG Members

Donna shared that in past facilitations she’s strongly recommended using first names only and not titles. The idea is to remind people that *every* voice is important, regardless of what a person’s position or title is. She asked for permission to use this protocol during the WG meetings. *Agreement: The group agreed to this protocol.*

Discussion and final acceptance of the Draft Rules of Operation

Donna asked the group if they had any suggested changes or additions to the Proposed Draft Rules of Operation. *Agreement: The group had no changes and accepted the Rules.*

Announce the regular, monthly meeting dates through Dec. 2021

There was a Doodle Poll that most of the group participated in. Based on the responses received, the 3rd Thursday of every month, from 1 to 3 p.m. was selected. Andrew has mapped out all the dates, highlighting holidays that might preclude meetings.

Donna asked the WG members to make sure all the dates are marked off in their calendars so that they don't schedule anything over it and we can plan based on those dates.

It was acknowledged that for the period from January through May 2021, PUC is aware that the Legislature will be in session, so some dates may need to change. We'll be flexible and accommodate as best we can during that time.

Presentation on Needs/Desired Elements

Donna presented the attached clustered lists of Needs and Desired Elements that the WG members had contributed to.

Needs

Donna shared that she had done the first round of clustering, then had PUC staff assist with the second round to clarify any questions about specific content. Without question, the top two items were **Affordability** and **Reliability**. Meeting Client Needs came in a close third, followed by Service, and Operational Excellence, which includes items related to being efficient and nimble. There were a few unique or single-issue items.

Desired Elements

Donna noted that the immediate needs identified were quite different from the desired elements identified. The desired elements are the things that the group identified as essential for creating an effective and efficient water carrier system that either doesn't exist now or needs to be enhanced in the future.

However, the top two items on both lists are similar: **Meeting Client Needs** and **Flexibility/Affordability**. This is followed by Meeting Provider Needs, also. The majority of items are in these three clusters. There were also clusters around Financial Viability and Safety as well as some unique items.

Donna asked the group if there were any questions about either lists or items that needed to be moved.

Q = Question, A = Answer, C = Comment

Q: I don't have any changes but I'd like to know from a process standpoint, this is a simply a collection of our group needs and listed items right? We're not challenging them or shaping them into any form at the moment?

A: Donna: That's correct. The purpose was to help us to see the "top of mind" things that people need right now or anticipate that we need in the future for an effective and efficient system. This exercise also highlighted areas of commonality that the group had. I had lots of ideas about how to structure the last meeting and this one, but from here on out, the WG gets to set the agendas. I wanted us to see the areas of common concern so that we can decide what direction the group needs to move in going forward.

Q: On the Desired Elements list, the items under Meeting Client Needs, 5th bullet down, can this be elaborated on? "Allow for transport of trucks and smaller vehicles between islands. Not require always moving entire barge." What does that mean?

A: Donna: In terms of level of abstraction of these items, some are very detailed. On the Needs list most items were at a higher level of abstraction. These are more detailed.

A: That statement describes what is done today as a service by YB.

A: We do move and transport small vehicles between islands. We can't transport them without a barge. Is the item asking to have another mode of transport to move vehicles? What does "not require moving an entire barge" mean?

A: We do run a specified auto barge that carries only vehicles so that might be the concern. There are other barges they might not be able to get vehicles on due to what's scheduled.

ACTION: Donna encouraged whoever wrote that item to send a clarification to her by next week Thursday, Sept. 24th so that confidentiality can be protected.

Q: On the Desired Elements list under Flexibility and Efficiency, the last bullet point, it says "maximizes the inbound and outbound container space utilization." What does that mean?

A: I can see why that's there. I live on the water in Hilo Bay and the barges pass in front of my home. I see empty spaces on them. Maybe that's what this bullet point applies to. It looks like there is still space on barges. YB and ILWU could better answer this because they load and unload.

A: Yes, I think this is a Hawai'i County issue. The outbound from Honolulu is at a higher capacity, but the inbound from Hilo and Kawaihae is not. This may be a pricing or supply issue. Maybe around discounting pricing to incentivize more volume going back inbound to Honolulu. I think that was the concern.

C: (From DOT) As a matter of order, I submitted my three items, but I don't see them on either list.

A: Donna: Send me your three items and where you'd like them to go and I'll create a revised and updated list for the group. I can affirm that the items you just mentioned show that you're trending with the rest of the group.

ACTION: Donna invited any WG member who felt like items were missing or need to be moved to a different cluster to send them to her by next week Thursday, Sept. 24th. These lists are just to provide context.

Q: The last bullet under unique items, "regulatory parity," I'd like to understand this a bit more. In the Flexibility/Adaptability category, there's a bullet talking about regulatory flexibility – how are the two different?

A: The gist of regulatory parity is that we operate in a regulated context, as a regulated monopoly, but we're competing. We'll share more during our presentation – e.g., SIT. We need regulatory parity in that instance, in order to preserve intrastate commerce.

ACTION: Donna asked Chris to send her more content for the regulatory parity item by next week Thursday, Sept. 24th.

Q: Do we move regulatory parity to another category?

A: Yes, it is a unique item, but it drives financial viability. Please move it there.

Presentations from State agencies and YB

Presentations by HDOT, PUC, DCA

Derek presented on the Harbors System in Hawaii (see PowerPoint presentation). Some highlights from his presentation:

- PASHA cargo comes in/departs over Young Brothers. In Hilo, there are no Matson arrivals via ship or barge.
- In Kaunapau and Kaunakakai – only Young Brothers.

Cat and Leo presented on the regulatory side of the DCA and PUC roles (see PowerPoint presentation). Some highlights from their presentation:

- DCA employees must be impartial. As consumer advocates, they represent all consumers as a whole and have to take into account differences between all kinds/sizes of customers.
- Water Carrier regulating is just one part of CA's work and responsibilities, and just one part of the PUC's work. We're lucky to have Dean Nishina and Lisa Hiraoka of CA's office. They are skilled and experienced.
- We have emergency powers to put someone in on a temporary basis if a Water Carrier leaves the islands. We want the service to be consistent for the consumer. There's a gap in service until we find a new vendor, so we try not to get to that point.

We try to work with the Water Carriers to make sure all goes well. There are a lot of things to consider, the goals of State, goals of Water Carriers to operate efficiently and safely, etc.

- Part of what the PUC and CA's need to do is to balance both sides. There were previously expressed concerns about the CA office being only concerned with the consumer. CA is statutorily bound to look at reasonableness and impact on consumers, but ALSO addresses viability of the utility as well. If the utility is not in a financially healthy viable position, both entities are tasked to strike that appropriate balance.

Q = Question, A = Answer, C = Comment

Q: Just for clarification, can you clarify on Honolulu harbors departure on Matson? Matson unloads at Honolulu harbor, but you're not using your barges to transport? It might just be a rumor, but it sounds like cargo dropped off at Honolulu harbor that is transferred to Kahului is via YB, not Matson.

A: The answer is yes AND no. We run three barges – own and operate three barges. For the last couple of months, due to a reduction in auto volume, we've not been operating one barge. We've been using YB to move autos. Freight continues on Matson, but we're using YB for overflow.

A: Can I also clarify that the schedule presented is the pre-COVID schedule that we're intending to get back to.

Q: Does it represent reality right now?

A: It may not. As the order directs, YB needs to get back to a pre-COVID schedule.

A: Effective September 1, YB reinstated our pre-COVID schedule. But we are not running Waialeale as we were previously.

Q: On the Hilo and Nawiliwili port schedule, they reflect weekly arrivals from PASHA?

A: Bi-weekly. It's primarily an auto ship that passes through these ports bi-weekly.

Q: In general, for each port we laid out terminal facilities and YB's footprint. Can you speak to the significant construction and infrastructure projects that are affecting our ability to operate? Address this question at a high level.

A: Yes. DOT is the landlord, if you will. We have tenants and users through leases or revocable permits. We have legal licenses for users to occupy and utilize areas. There's also shared space that may not be reflected in the presentation – space that is shared by multiple users. A Harbor Master at every harbor makes decisions in real time about what comes in. For example, we're not showing shared use of cruise ships. Because we are a landlord to the ports, we are responsible for improvements. We may ask tenants to move temporarily as we do repairs, enhancements, etc. So these areas may shift over time as those improvements are happening.

Q: For my educational benefit – how long has the PUC regulated inter-island cargo for the State of Hawaii?

A: PUC was established to regulate public utilities, including interisland shipping in 1913. However, it was 1974 when the Hawaii Water Carriers Act was established. This is what effectively regulates YB today.

Q: Are there any price regulations or protections for consumers for freight? The LCL cargo that a customer brings to the freight forwarder?

A: The freight forwarders are regulated as motor carriers. We do take a look at rates they charge and they should be in line with other motor carriers providing the same service. There's a "zone of reasonableness" where they can go up and down on rates, with the Commission's approval.

ACTION: For the sake of time, Donna encouraged WG members to continue to send further questions or comments on the presentations to her by next week Thursday, Sept. 24th. Those can be added as an addendum to the Group Memory as "afterthoughts."

Presentation by YB

Jay Ana presented (see PowerPoint presentation). Some highlights from his presentation:

- The world has changed around us over the years, like the advent of Big Box retailers, but the regulations haven't really kept up with these changes.
- As retail has evolved, the nature of how cargo has moved has changed. For example, there is increasing demand to move straight-load containers. We need to look at how (HRS chapter) 271G can evolve to adjust to these changes.
- Initially, we were primarily transporting agricultural-related items. Over time, we moved from house barges to flat deck barges for LCL palletized cargo. Now we mostly have flat deck barges to carry the containers.
- I'd like to dive into the SIT issues during the course of this WG. It's complex. SIT is a mechanism that allows shippers to maximize cargo from the West Coast. There's "Stop in Transit" and "Storage in Transit."
- For example, a customer might order a full container from the West Coast – half for Honolulu and half for Nawiliwili. The consignee will unload only the Honolulu items, then backfill.
- Storage in Transit is when you can declare cargo as SIT on West Coast but you don't designate a final destination. You can warehouse in Honolulu for up to a year, then move it through SIT.
- Some consumers are backfilling with what is really intrastate cargo. They're shifting how they're using YB, PASHA, and Matson. It's not our responsibility to police this, but there's no oversight.
- Consumers are bypassing YB. We've seen a decline as they move to SIT. This causes a degradation in volume, which in turn causes demand for rate increases. The state economy has thrived but YB's volume has gone down.

- Pre-ERI, we could move the equivalent of a small love seat sofa for \$68. You couldn't get it moved on island for that amount. There is a disparity. We're not covering our true costs.
- The disparity is in the amount of effort it takes us to move a commodity. 70% of our volume is driven by LCL, but it only drives 20% of our revenue. We have to pick the commodity up multiple times. We want to provide LCL service but to generate efficiencies in our operations, we need to pay attention to this.
- Our customer service strategy is improving the customer experience in the near term assures our viability in the long-term.
- We need to continue to evolve. YB 2.0 needs to be a better, more lean, more agile organization, able to adapt and shift with the market conditions. We haven't been in a place to be agile at the moment. We want to continue to improve on this to serve our community effectively.
- In our local community, we have difficulty in serving the Big Box retailers. The margins are thin and competition is high. We want to bridge the gap.

Q = Question, A = Answer, C = Comment

Q: You mentioned the CS Working Group – whose part of that?

A: You want names?

A: Sure. I'll let you know offline

Donna noted that YB's presentation shows that they are in alignment with what their customers have articulated on the Desired Elements list.

C: I have a request. I've had an inquiry by a private group of business people who want to be part of this group. I mentioned we're not adding any other folks to the WG. How should we handle requests like this? If we want to consider the many interests from end users who have ideas and want to contribute, could we do a subcommittee on that particular area? They could report back to the WG.

A: Donna: In our desire to be representative of all the different issues, we do want to have a mechanism to hear voices of people who are not represented here. So, the WG's homework is to send me your list of organizations or individuals who you think are impacted by this issue, or have information on this issue, or are knowledgeable and want to be engaged with this issue. I cluster names on the list and send it out in advance of the next meeting so the WG can make suggestions for who would be the best representatives to provide input to the WG. [After the meeting, the PUC team decided that we would create an Excel file to collect this information by Thursday, October 1st.]

C: In the recent editorial in the paper by an individual, suggestions were made on what to do about YB. Commission Chair Jay Griffin contacted him to get her/his input and see what he had to say. The individual took that to mean that she/he was being invited to be a member of this WG. We let her/him know that we couldn't do that

due to resolution, but we wanted her/his input and engagement. She/he has also contacted Speaker Saiki's office and Sen. Inouye.

A: We could look at how to get input from this branch of customers. Given all these Desired Elements, this would put us into categories we need to work in. If there's a subcommittee, we could leave it to them to get input from key people in that particular area. That would be more efficient in addressing the customer side so the information comes back to the WB as a whole. We could identify areas we need to follow up with customers on. This is an alternative to adding people directly to WG.

Donna thanked the presenters for doing the overview in such a succinct and clear way. It was important to give voice to folks on the committee to share what they'd like to see happen.

She noted that given the context, the WG can talk about a structure that will help generate recommendations for the medium- and long-range solutions. There is already one area that we seem to have identified we want to carve out as a subcommittee – customers. Some committees may overlap.

Q: On the technical side, can we check to see if Chapter 92 allows us to have subcommittees? As Legislators, we can hold information briefings that would be open to the public, etc. But I think subcommittees are also helpful, especially around (HRS chapter) 71-G. We need to clarify if we are allowed and by what mechanism. Is our committee entitled to serve as recordkeeping? Can we use assistance with subcommittee from Donna and Jen?

A: We can take this conversation offline.

PowerPoint Presentation of outcome of the rate increase hearing

Since the presentation was provided in advance, and due to limited time remaining, there's no need to review it during this meeting.

Presentation on the use of SharePoint

There's no need to do this presentation either. Andrew has made SharePoint easy to access. There may be some additional modifications made, but for the most part, we're in good shape with this.

Q = Question, A = Answer, C = Comment

C: I get having subcommittees, but given that we're in a time of COVID, this WG was formed to help make sure there is sustainability for YB moving forward. We do have a plan in place for customer feedback. Let's focus on getting this WG off the ground and moving forward. Let's look at what's happening – COVID, lack of containers, and how to continue to sustain YB.

A: Donna: I think our mandate is broader than that. We're tasked with making medium- and long-term recommendations about how to create a system that is both sustainable and efficient.

Q: One of the things I wanted to understand is from a PUC perspective, what are the requirements we're looking at? Can we start with a blank sheet? Can we discuss sailing schedules? Or, is our mandate that everything that's there today is the schedule and it stays? Is there a required rate of return? I want to understand the scope. For example, is YB required to go two times a week into a port, whether it's got a full load or not? If the requirement is Hilo must have one sailing a week, how much flexibility is there about when they go? Can it be structured to maximize the volume of the load? What are the limitations?

A: Donna: What you're really asking is can we set up a system that re-optimizes flexibility and maintains financial viability and sustainability?

Next Steps

- Homework assignments:
 - ACTION: As a participant in the WG and representative of your constituency, please share your thoughts on the **top three top areas this WG must address**. Please send these to Donna by September 24. Donna will use this information to structure the next meeting. Donna changed the due date to Oct. 1st to give everyone more time to thoughtfully work on this assignment.
 - ACTION: Second, please consider what gaps in information the WG has but needs filled in order to move forward (no more than 3 items). Please send this to Donna by September 24 as well. Donna changed the due date to Oct. 1st to give everyone more time to thoughtfully work on this assignment.
 - ACTION: Leo will follow up with an email to the WG to remind about these assignments.
- We will compile the group memory and work on the next agenda to send out to the WG.

GROUP AGREEMENTS:

- The members of the WG agreed to be identified in meetings by their first name and organization, without titles, in order to support that every voice is important in the conversation.
- The group had no changes to the Draft Rules of Operation and accepted the Rules as is.

ACTIONS:

- PUC will check on the obligation regarding sign language interpreters for the WG meetings.

- Whoever wrote the item that is the 5th bullet under “Meeting Client Needs” please send a clarification to Donna so the information can be added to the document.
- Any WG member that feels there are items missing or that need to be moved to a different cluster, please send that information to Donna and she will make the changes.
- It was requested that Chris send Donna more content for the regulatory parity item.
- WG members will send Donna their top three areas for the WG to address and up to 3 items describing information the group needs but does not yet have. The WG will also identify organizations or individuals whose input needs to be sought through a mechanism we develop.
- Leo will follow up with an email to the WG to recap the homework assignments.