

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Request of )  
 )  
SEA LINK OF HAWAII, INC. )  
 )  
To Voluntarily Surrender its )  
Certificate of Public Convenience )  
and Necessity. )  
\_\_\_\_\_ )

DOCKET NO. 2016-0214

ORDER NO. 33977

APPROVING THE SURRENDER OF SEA LINK OF HAWAII, INC.'S  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

FILED  
2016 OCT 17 P 1:31  
PUBLIC UTILITIES  
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Request of )  
SEA LINK OF HAWAII, INC. ) Docket No. 2016-0214  
To Voluntarily Surrender its ) Order No. **33977**  
Certificate of Public Convenience) and Necessity. )  
\_\_\_\_\_ )

APPROVING THE SURRENDER OF SEA LINK OF HAWAII, INC.'S  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

By this Order,<sup>1</sup> the commission, subject to certain conditions, approves the voluntary surrender of SEA LINK OF HAWAII, INC.'s ("Sea Link") certificate of public convenience and necessity ("CPCN") to operate as a water carrier of passengers and property between the islands of Oahu, Molokai, and Maui. As a result, Sea Link may terminate its ferry service operations (commonly known as the Molokai Ferry) within ten calendar days from the date of this Order.

---

<sup>1</sup>The Parties are Sea Link and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("DCCA"), DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). No persons moved to intervene or participate in the subject proceeding.

I.

Background

Sea Link is authorized by the commission to operate as a water carrier of passengers and property between the islands of Oahu, Molokai, and Maui, pursuant to its CPCN.<sup>2</sup> On November 10, 1988, the commission, in In re Sea Link of Hawaii, Inc., Docket No. 6345 ("Docket No. 6345"), approved Sea Link's request to indefinitely suspend its sailing schedule between Kaunakakai, Molokai, and Honolulu, Oahu, based on insufficient passenger revenues.<sup>3</sup>

Sea Link currently provides ferry service between Kaunakakai, Molokai, and Lahaina, Maui, pursuant to its Tariff No. 2, utilizing the Molokai Princess vessel.<sup>4</sup> Said service is commonly referred to as the "Molokai Ferry."<sup>5</sup>

Sea Link's current one-way passenger fares, which include the fuel surcharge and applicable fees and

---

<sup>2</sup>In re Sea Link of Hawaii, Inc., Docket No. 2015-0181 ("Docket No. 2015-0181"), Decision and Order No. 33083, filed on August 25, 2015, at 3.

<sup>3</sup>Docket No. 6345, Decision and Order No. 10007, filed on November 10, 1988.

<sup>4</sup>See Docket No. 2015-0181, Decision and Order No. 33083, at 3-4; and <https://www.molokaiferry.com>.

<sup>5</sup>See <https://www.molokaiferry.com>.

taxes, are: (1) \$60.59 for passengers ages 13 and older; and (2) \$30.30 for passengers between the ages of 2 to 12.<sup>6</sup>

Sea Link is a wholly owned subsidiary of Lahaina Cruise Company, which does business as the Hawaii Ocean Project.<sup>7</sup> Lahaina Cruise Company operates dinner, snorkeling, and whale watching cruises/tours.<sup>8</sup> Said sightseeing and recreational activities historically have not been subject to the commission's jurisdiction, pursuant to the exemption provision (HRS § 271G-6(5)) set forth in the Hawaii Water Carrier Act, HRS chapter 271G.<sup>9</sup>

Sea Link and Lahaina Cruise Company share certain employees, facilities, and equipment.<sup>10</sup>

For the shared employees: (1) hourly wages are allocated between Sea Link and Lahaina Cruise Company based on the number

---

<sup>6</sup>See Sea Link's monthly fuel surcharge report, file-stamped September 28, 2016, for the month of October 2016; and <https://www.molokaiferry.com>.

<sup>7</sup>Sea Link's response to CA-IR-1(a) and (b), and Attachment 1 thereto.

<sup>8</sup>See <http://www.hawaiiocanproject.com>.

<sup>9</sup>HRS § 271G-6(5) (HRS chapter 271G shall not apply to persons engaged in the business of transporting persons for sightseeing and other recreational activities); see also Sea Link's Tariff No. 2, which applies to Sea Link's Molokai Ferry operations, including special voyages between Maui and Molokai.

<sup>10</sup>Sea Link's response to CA-IR-1(b).

of hours worked for each company; (2) the salaries of the two shared salary employees are paid for by Sea Link (ten percent) and Lahaina Cruise Company (ninety percent), respectively; and (3) shared employees are on separate payrolls and receive separate paychecks from each company.<sup>11</sup>

Meanwhile, Sea Link shares certain facilities and equipment with Lahaina Cruise Company, at no cost to Sea Link.<sup>12</sup>

A.

Procedural Background

By letter dated August 24, 2016, Sea Link requests the commission's approval to voluntarily surrender its CPCN ("Letter Request"), stating its "desire[] to cease its operations as soon as practicable to avoid further financial loss."<sup>13</sup> Sea Link served a copy of its Letter Request upon the Consumer Advocate.

Sea Link states that if it "receives Commission approval to surrender its CPCN, Sea Link plans to cease all ferry services between Maui and Molokai, including any tour and/or charter services."<sup>14</sup>

---

<sup>11</sup>Sea Link's response to CA-IR-1(b) (3).

<sup>12</sup>Sea Link's response to CA-IR-1(b) (3).

<sup>13</sup>Letter Request, at 3.

<sup>14</sup>Sea Link's response to CA-IR-2.

On September 7, 2016, the commission issued Order No. 33899: (1) inviting the general public to submit comments in response to Sea Link's request; (2) instructing Sea Link to promptly advise its customers/passengers in writing of the opportunity to submit written comments to the commission; and (3) establishing a deadline date of September 27, 2016, the close of business, for the submission of written comments.

On September 9, 2016: (1) Sea Link informed the commission of the methods undertaken to notify its customers/passengers of the opportunity to submit written comments to the commission; and (2) the Consumer Advocate filed its preliminary position statement, stating its intent to participate in the subject proceeding and file its final position statement following the completion of its investigation.

On September 14, 2016, Sea Link filed its responses to the commission's information requests. Thereafter, on September 27, 2016, Sea Link filed its responses to the Consumer Advocate's information requests and the commission's supplemental information request, respectively.

On October 7, 2016, the Consumer Advocate filed its position statement, stating that it does not object to: (1) Sea Link's request to voluntarily surrender its CPCN; and (2) Sea Link's termination of its ferry service operations.

On October 14, 2016, Sea Link filed its reply position statement.

B.

Written Comments

The commission enlisted various means to solicit written comments from the general public on Sea Link's request. Specifically:

1. On September 7, 2016, the commission issued Order No. 33899, and mailed copies of its written notice/invitation to the following government agencies for posting on the community bulletin boards located at the government agency's work site and the surrounding community: Molokai Public Library; the State of Hawaii ("State"), Department of Transportation, Harbors Division, Kaunakakai Harbor; Office of Hawaiian Affairs, Molokai Office; University of Hawaii, Maui College, Molokai Education Center; and the County of Maui, Mitchell Pauole Center;

2. On September 7, 2016, the commission distributed its written notice/invitation to the local media via a news release, and also posted a copy of the written notice/invitation on the home page of its website; and

3. On September 14 and 21, 2016, the commission's written notice/invitation was published in the Honolulu Star-Advertiser, Maui News, and Molokai Dispatch newspapers.<sup>15</sup>

Likewise, Sea Link informed its customers/passengers of the opportunity to submit written comments to the commission by posting written notice: (1) "in visible locations at its Lahaina Harbor and Kaunakakai Harbor terminal ticket sales locations;" (2) "in several places onboard the ferry;" and (3) on the water carrier's website.<sup>16</sup>

The twenty-one written comments timely submitted to the commission are brief, to the point, and cordial.<sup>17</sup> Most of the commenters support the continuation of the Molokai Ferry as a vital transportation service and an option to airline travel, especially for Molokai-based travelers, and bemoan the lack of financial assistance from the State and County of Maui governments. Some commenters also recommend that the government assume

---

<sup>15</sup>See Commission's correspondence, dated September 8 and 9, 2016, with enclosures; and Affidavits of Publication, submitted by the Honolulu Star-Advertiser, The Maui News, and Molokai Dispatch.

<sup>16</sup>See Sea Link's letter, dated September 12, 2016, with enclosure.

<sup>17</sup>See <http://dms.puc.hawaii.gov/dms/index.jsp>, the commission's on-line Document Management System, Docket Quick Link No. 2016-0214, for the written comments received by the commission; see also Consumer Advocate's Statement of Position, filed on October 7, 2016, at 5 and 10 (the Consumer Advocate reviewed the twenty-one written comments timely submitted to the commission).



Sea Link's business and operations, while others urge the commission to support and "save" the Molokai Ferry.

Conversely, two commenters support Sea Link's surrender request, citing to Sea Link's financial losses.

C.

Consumer Advocate's Position

The Consumer Advocate recognizes: (1) "the desire expressed by many customers and community members to maintain a passenger ferry service between Molokai and Maui[;]" and (2) "the impact that the discontinuation of Sea Link's services may have on groups such as school sports teams, [which] have historically relied on the ferry service to travel to games."<sup>18</sup>

That said, the Consumer Advocate does not object to Sea Link's requested relief, stating that:

1. Sea Link continues to experience significant and continual declines in its passenger volumes, i.e., sustained, reduced demands for its ferry service.<sup>19</sup>

2. "Sea Link believes that lower, competitive fares for air travel [is] a primary reason behind decreases in

---

<sup>18</sup>Consumer Advocate's Statement of Position, at 10.

<sup>19</sup>Consumer Advocate's Statement of Position, Section II.A, at 6-8, and 10-11.

ridership."<sup>20</sup> In follow-up thereto, the Consumer Advocate independently "verified that current airfares between Maui and Molokai appear to start from \$50 to \$58 for one-way travel and that flights are scheduled on a regular basis."<sup>21</sup> Thus, for many commuters, airline travel appears to be a viable and competitive alternative.<sup>22</sup>

3. Regularly scheduled ferry service between Molokai and Maui will require some degree of government intervention and subsidization.<sup>23</sup> Nonetheless, no alternative sources of funding are apparently available to support Sea Link's continued operations.<sup>24</sup>

4. "Even if Sea Link [was] able to increase its tariff prices to a level that would cover its operating expenses, the higher prices would likely lead to further decreases in ridership as more passengers substitute toward air travel or stay on-island."<sup>25</sup>

---

<sup>20</sup>Consumer Advocate's Statement of Position, at 8.

<sup>21</sup>Consumer Advocate's Statement of Position, at 8 (footnote, text, and citations therein omitted).

<sup>22</sup>Consumer Advocate's Statement of Position, at 11.

<sup>23</sup>Consumer Advocate's Statement of Position, at 12.

<sup>24</sup>Consumer Advocate's Statement of Position, Section II.B, at 8-9.

<sup>25</sup>Consumer Advocate's Statement of Position, at 12.

5. "To the extent that community groups, such as local sports teams, continue to require or prefer ferry service, the Consumer Advocate believes that it may be in the interest of Sea Link's parent company, the Lahaina Cruise Company, to investigate whether one of its other vessels may be able to provide affordable service on a charter basis."<sup>26</sup>

6. "Regarding long-run water transportation passenger options, the Consumer Advocate is aware that the State Department of Transportation is working with the U.S. Maritime Administration to conduct a feasibility study regarding a publicly funded inter-island ferry system."<sup>27</sup>

In sum, "the Consumer Advocate concludes that Sea Link's ferry operations do not appear financially sustainable given its reduced passenger demand[.]"<sup>28</sup>

## II.

### Discussion

HRS § 271G-15 provides in part that "[a]ny certificate may, upon application of the holder thereof, in the discretion of

---

<sup>26</sup>Consumer Advocate's Statement of Position, at 11 (footnote and text therein omitted).

<sup>27</sup>Consumer Advocate's Statement of Position, at 11 (footnote, text, and citation therein omitted).

<sup>28</sup>Consumer Advocate's Statement of Position, at 11.

the public utilities commission, be amended or revoked, in whole or in part[.]" (Emphasis added).

HAR § 6-68-32(c)(1) states:

§6-68-32 Amendment, suspension, or revocation of license.

. . . .

(c) In accordance with §271G-15, HRS, the commission may suspend, amend, or revoke the license of a water carrier, in whole or in part, after notice and hearing, for the wilful failure to comply with any regulatory law, provided that:

(1) The commission may, upon the licensee's application and the commission's discretion, amend or revoke the license of a water carrier, in whole or in part, without a hearing[.]

HAR § 6-68-32(c)(1) (emphasis added).

A.

Voluntary Surrender of Sea Link's CPCN

Consistent with its discretionary authority, the commission finds good cause to approve, subject to certain conditions, Sea Link's request to voluntarily surrender its CPCN.

The commission, in support thereto, specifically finds and concludes:

1. In 1987, Sea Link commenced its water carrier operations. Between approximately 1988 to June 30, 1996, Sea Link's ferry service was subsidized by the State to solve two

major economic concerns: a shortage of jobs on Molokai and a shortage of workers for West Maui's visitor industry.<sup>29</sup>

2. As Sea Link previously explained in this regard:

At the time, pineapple had been phased out of Molokai and Maui had a labor shortage. Through a \$30,000 per month charter agreement with the State, Sea Link of Hawaii, Inc. agreed to transport workers at a greatly reduced rate to be shared by the employer and the employee. A side benefit was having regular service between the islands for residents and tourists on recreational trips.

In re Sea Link of Hawaii, Inc., Docket No. 2008-0133 ("Docket No. 2008-0133"), Decision and Order, filed on October 17, 2008, at 2.

3. Following the termination of State subsidies in July 1996, Sea Link temporarily shut down its ferry service until it was able to recommence its ferry service without the aid of State funds.<sup>30</sup>

4. Previous commission actions undertaken since July 1996 to assist Sea Link in ensuring its financial viability include:

A. In July 1996, the commission approved a temporary, sixty percent increase in Sea Link's passenger fares, and a month later, in August 1996, permanently approved the sixty percent

---

<sup>29</sup>Docket No. 2015-0181, Decision and Order No. 33083, at 3.

<sup>30</sup>Docket No. 2015-0181, Decision and Order No. 33083, at 4.

increase in said passenger fares.<sup>31</sup> The increase in Sea Link's passenger fares was triggered in large part by the termination of State subsidies for Sea Link, effective from July 1996.<sup>32</sup>

B. In August 2008, the commission authorized Sea Link to establish and assess a temporary fuel surcharge, and two months later, in October 2008, authorized the fuel surcharge on a permanent basis.<sup>33</sup> The commission approved the requested relief "based on Sea Link's unstable financial condition, attributable to a large extent to the recent and rapid increase in the water carrier's fuel costs, together with its potential abandonment of service due to its negative operating income[.]"<sup>34</sup>

C. In August 2015, the commission approved Sea Link's request to implement certain tariff changes to its sailing schedule and conditions of service, ultimately with the intent of "provid[ing] Sea Link with the opportunity to continue to provide

---

<sup>31</sup>In re Sea Link of Hawaii, Inc., Docket No. 96-0202 ("Docket No. 96-0202"), Decision and Order No. 14791, filed on July 18, 1996 (temporary approval); and Docket No. 96-0220 ("Docket No. 96-0220"), Decision and Order No. 14870, filed on August 9, 1996 (permanent approval).

<sup>32</sup>Docket No. 96-0202, Decision and Order No. 14791, at 2; and Docket No. 96-0220, Decision and Order No. 14870, at 2.

<sup>33</sup>Docket No. 2008-0133, Order Approving Temporary Fuel Surcharge, filed on August 1, 2008 (temporary approval); and Decision and Order, filed on October 17, 2008 (permanent approval).

<sup>34</sup>Docket No. 2008-0133, Decision and Order, at 13.

water carrier service, albeit at a reduced level of service, in lieu of outright ceasing its water carrier operations due to its increasing financial losses."<sup>35</sup>

5. Despite such actions, Sea Link's financial losses continue to mount:

A. For 2013, Sea Link reported a net operating loss of \$108,235, based on total operating revenues of \$2,048,229, and total operating expenses of \$2,156,464.<sup>36</sup>

B. For 2014, Sea Link reported a net operating loss of \$288,068, based on total operating revenues of \$1,765,169, and total operating expenses of \$2,053,237.<sup>37</sup>

C. For 2015, Sea Link reported a net operating loss of \$523,555, based on total operating revenues of \$1,115,644, and total operating expenses of \$1,766,532.<sup>38</sup>

D. For the eight-month 2016 period ending August 31, 2016, Sea Link's estimated net operating loss is approximately \$78,208 and its projected total loss for 2016 is over \$117,000.<sup>39</sup>

---

<sup>35</sup>Docket No. 2015-0181, Decision and Order No. 33083, at 2.

<sup>36</sup>Sea Link's 2013 Annual Financial Report, at 11.

<sup>37</sup>Sea Link's 2014 Annual Financial Report, at 11.

<sup>38</sup>Sea Link's 2015 Annual Financial Report, at 11.

<sup>39</sup>Sea Link's response to PUC-IR-101.

6. Sea Link, in essence, represents that its financial losses are no longer sustainable.<sup>40</sup>

7. Sea Link further represents that despite its extensive efforts, it has been unable to secure federal, State, or County of Maui funding to continue its water carrier operations.<sup>41</sup>

8. Conversely, Sea Link explains that:

The Federal Department of Transportation awarded two local commuter airlines, Makani Kai Airlines and Mokulele Airlines, an annual subsidy for four (4) years totaling approximately \$4.5 million. This has led to extremely low fares in 2016, as low as \$36 (including applicable taxes) from Kapalua, Maui to Ho`olehua, Molokai on Mokulele Airlines, for example. In comparison, Sea Link's current one-way ticket price for Maui to Molokai is \$62.04. Sea Link believes the recent lower pricing in 2016 of competing air fares has directly impacted Sea Link's monthly passenger ridership, as reflected by a reduction in ridership from 1691 total passengers in January 2016 to 859 total passengers in July 2016. Sea Link further believes that ridership will continue to stagnate or decrease further, and raising passenger fares/charges will only worsen the situation - which will cause Sea Link to continue operating at a loss or incur even further losses.

---

<sup>40</sup>See Letter Request, at 2-3.

<sup>41</sup>Sea Link's response to PUC-IR-102. In 2015, Sea Link did receive a one-time grant from the County of Maui, in the amount of \$105,000, which it expended by June 2015. See Docket No. 2015-0181, Decision and Order No. 33083, at 10-12 and 23; and Sea Link's response to PUC-IR-102.



Letter Request, at 2 (footnotes, citations, and text therein omitted) (emphasis added); see also Sea Link's responses to PUC-IR-104 (Sea Link has been unable to achieve profitability due to reduced demand caused in large part by competition from commuter airlines) and CA-IR-4 (Sea Link has seen its ridership decline significantly as both local residents and tourists increasingly choose lower cost airline travel; community groups, including Molokai High School, are also increasingly choosing airline transport); and Consumer Advocate's Statement of Position, at 6-12 (Sea Link continues to experience significant and continual declines in its passenger volumes; for many commuters, airline travel appears to be a viable and competitive alternative; regularly scheduled ferry service between Molokai and Maui will require some degree of government intervention and subsidization; no government or private sources of funding are apparently available; and higher fares will likely lead to further decreases in ridership as more passengers substitute toward airline travel or stay on-island).

9. Sea Link's business model, in effect, is to rely solely or primarily on revenues from passenger fares to operate and maintain its ferry service.<sup>42</sup>

---

<sup>42</sup>Docket No. 2015-0181, Decision and Order No. 33083, at 23 (footnote, citation, and text therein omitted).

10. Sea Link also represents that its efforts to sell or transfer ownership of its water carrier business and operations to other entities such as the County of Maui and Hono Heke Corporation (operator of the Lanai-Maui ferry service) have been unsuccessful.<sup>43</sup> Any such transaction, moreover, would apparently not include the Molokai Princess vessel Sea Link utilizes in operating its Molokai Ferry service, as said vessel is leased and not owned by Sea Link.<sup>44</sup>

11. The commission recognizes: (A) the potential detrimental impact Sea Link's cessation of its ferry service will have on the affected communities;<sup>45</sup> and (B) Sea Link's commitment to continue serving the public following the cessation of State subsidies in July 1996.

12. Ultimately, however, the commission cannot compel (i.e., force) Sea Link to continue to operate as a water carrier of passengers and property at a financial loss.<sup>46</sup>

---

<sup>43</sup>Sea Link's responses to PUC-IR-102 and PUC-IR-103.

<sup>44</sup>See Sea Link's response to CA-IR-2(b).

<sup>45</sup>See Sea Link's response to PUC-IR-106; and Section I.B, Written Comments, above.

<sup>46</sup>See C. Phillips, Jr., The Regulation of Public Utilities, 2d ed. 1988, at 522-523 (a public utility is not obligated to provide service at a loss).

13. As noted by Sea Link, alternatives such as Makani Kai Airlines, Mokulele Airlines, and Ohana by Hawaiian, exist.<sup>47</sup>

The commission, in sum, approves, subject to the conditions set forth in this Order (see Section II.B and Ordering Paragraph No. 2, below), Sea Link's request to voluntarily surrender its CPCN.

B.

Commission-Imposed Conditions

Sea Link, in response to PUC-IR-107, describes its plan for phasing-out its water carrier operations in the event the commission approves the water carrier's surrender request. Sea Link, in support of its phase-out plan, states:

Sea Link's proposed 60-day period was intended to be a reasonable, although finite, commitment to maintain certain operational capabilities beyond the termination of ferry services, including telephone service and office staffing, at Sea Link's expense. Upon termination of ferry services, Sea Link will cease to have any revenue generating activities and anticipates the need to eliminate operating expenses

---

<sup>47</sup>Letter Request, at 2, and Attachment 2 thereto; and Sea Link's responses to PUC-IR-104 and CA-IR-4; see also <https://hawaiianairlines.com>; and Consumer Advocate's Statement of Position, at 8 (the Consumer Advocate independently verified that current airfares between Maui and Molokai appear to start from \$50 to \$58 for one-way travel and that flights are scheduled on a regular basis).

within a reasonable amount of time following the termination.

Sea Link's response to PUC-IR-201.

Furthermore, Sea Link, in response to PUC-IR-201, essentially represents that it is unaware of any consumer-related DCCA laws, administrative rules, or policies that apply to Sea Link's proposed phase-out plan, including its sixty-day refund plan.<sup>48</sup>

A summary description of Sea Link's phase-out plan is as follows:

1. Upon Sea Link's receipt of the commission's order approving the water carrier's surrender request, Sea Link will:

A. Discontinue its ferry operations ten days thereafter; and

B. Provide: (1) notice to its passengers/customers; and (2) refunds to passengers/customers for unused fares, limited to a sixty-day period following the commission's approval order, or an alternative period the commission "deems appropriate under the circumstances[.]"

---

<sup>48</sup>Sea Link's response to PUC-IR-201 (Sea Link was unable to locate any DCCA laws, regulations, or policies that: (1) apply to its proposed phase-out plan, including its sixty-day refund period, or (2) pertain to the cessation of commission regulated water carrier operations or any refund period for unused tariff-based transportation services).

2. Sea Link explains that tickets issued prior to September 1, 2014, were in the form of paper tickets, while tickets issued on or after September 1, 2014, are in the form of electronic tickets or pre-paid bulk orders.

3. Sea Link will utilize various methods for notifying and providing refunds to customers with unused tickets, depending on whether the customer is a paper ticket holder, an electronic ticket holder, or a pre-paid bulk ticket holder. Specifically:

A. For a paper ticket holder who purchased a ticket or coupon booklet before September 1, 2014, Sea Link does not maintain contact information for said customer. Thus, Sea Link's written notice will be: (1) posted on its website, at its ticket sales/termination locations at Kaunakakai Harbor and the Hawaii Ocean Project booth at Lahaina Harbor, and on-board its Molokai Princess ferry; and (2) published in the Molokai Dispatch and the Lahaina News.

B. For an electronic ticket holder who purchased a ticket on-line, by phone, or in person on or after September 1, 2014, Sea Link: (1) requested contact information at the time of purchase; and (2) maintains said contact information in its electronic reservation system. Thus, to the extent that a customer's valid contact information exists, Sea Link will notify said customer by telephone, electronic mail, or both.

Sea Link, moreover, will provide written notice via the same methods it utilizes for providing notice to paper ticket holders.

C. For a pre-paid bulk ticket holder, such as a business, school, community group, or government agency that purchased tickets by a purchase order (commonly referred to as a "PO"), Sea Link maintains the contact information of said customer. Thus, to the extent that a customer's valid contact information exists, Sea Link will notify said customer by telephone, electronic mail, or both.

A copy of Sea Link's refund procedures, as described in its response to PUC-IR-107, is attached to this Order.

The Consumer Advocate recommends that: (1) Sea Link's written notice include the last day of ferry service, information on how to obtain refunds, and the commission's contact information; and (2) Sea Link also publish its written notice in the Honolulu Star-Advertiser and The Maui News, and distribute said notice to the government agencies which previously received the commission's written notice/invitation to submit public comments.

Sea Link, in response, states that it does not object to the Consumer Advocate's recommendations.

Lastly, in response to Sea Link's representation that it is unaware of any consumer-related DCCA laws,

administrative rules, or policies that apply to Sea Link's proposed phase-out plan, the Consumer Advocate makes it clear that it "cannot and does not speak for any of the other divisions within the DCCA, including but not limited to the Office of Consumer Protection, Business Registration Division, Professional and Vocational Licensing Division, and the Public Utilities Commission."<sup>49</sup>

The commission's approval of Sea Link's request to voluntarily surrender its CPCN is subject to the following conditions, which the commission adopts as reasonable:

1. Sea Link shall implement and complete its phase-out, which includes: (A) providing written notice to its passengers/customers; and (B) refunds to passengers/customers for unused fares previously purchased, during a sixty calendar day refund redemption period that will commence from the date of this Order.<sup>50</sup> Sea Link's written notice shall include the last day of ferry service, information on how to obtain refunds, and the commission's contact information.

2. In addition to the methods of posting and publishing written notice described in Sea Link's response to PUC-IR-107:

---

<sup>49</sup>Consumer Advocate's Statement of Position, at 14.

<sup>50</sup>See Sea Link's responses to PUC-IR-107 and PUC-IR-201.

A. Sea Link shall publish said notice in the Honolulu Star-Advertiser and The Maui News;

B. The publication of written notice in the Molokai Dispatch, Lahaina News, Honolulu Star-Advertiser, and The Maui News shall also encompass notice to pre-paid bulk ticket holders; and

C. Sea Link shall distribute said notice to the government agencies which previously received the commission's written notice/invitation to submit public comments, i.e., to Molokai Public Library; the State Department of Transportation, Harbors Division, Kaunakakai Harbor; Office of Hawaiian Affairs, Molokai Office; University of Hawaii, Maui College, Molokai Education Center; and the County of Maui, Mitchell Pauole Center.

2. Sea Link shall: (A) file its 2016 Annual Financial Report (pro-rated basis); and (B) pay all of its remaining public utility fees due.

Lastly, the commission makes it clear that the implementation and completion of the subject phase-out plan is limited to Sea Link's regulated water carrier operations (i.e., Sea Link's Molokai Ferry service). It does not apply to Lahaina Cruise Company's non-regulated sightseeing and recreational activities such as its dinner, snorkeling, and whale watching cruises/tours, which are beyond the scope of the



Hawaii Water Carrier Act, HRS chapter 271G. Consistent thereto, the commission takes no action on the Consumer Advocate's suggestion that Lahaina Cruise Company "investigate" whether it may be able to provide affordable transport service on a charter basis for community groups such as local sports teams.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. Sea Link's request to voluntarily surrender its CPCN to operate as a water carrier of passengers and property between the islands of Oahu, Molokai, and Maui is approved. Sea Link may terminate its ferry service (i.e., Molokai Ferry) operations within ten calendar days from the date of this Order.

2. The voluntary surrender of Sea Link's CPCN is subject to the following conditions:

A. Sea Link shall implement and complete its phase-out plan, which includes: (1) providing written notice to its passengers/customers; and (2) refunds to passengers/customers for unused fares previously purchased, during a sixty calendar day refund redemption period that will commence from the date of this Order. Sea Link's written notice shall include the last day of ferry service, information on how to obtain refunds, and the commission's contact information.

A copy of Sea Link's refund procedures, as described in its response PUC-IR-107, is attached to this Order.

B. In addition to the methods of posting and publishing written notice described in Sea Link's response to PUC-IR-107:

(1) Sea Link shall publish said notice in the Honolulu Star-Advertiser and The Maui News;

(2) The publication of written notice in the Molokai Dispatch, Lahaina News, Honolulu Star-Advertiser, and The Maui News shall also encompass notice to pre-paid bulk ticket holders; and

(3) Sea Link shall distribute said notice to the government agencies which previously received the commission's written notice/invitation to submit public comments, i.e., to Molokai Public Library; the State Department of Transportation, Harbors Division, Kaunakakai Harbor; Office of Hawaiian Affairs, Molokai Office; University of Hawaii, Maui College, Molokai Education Center; and the County of Maui, Mitchell Pauole Center.

C. Sea Link shall promptly notify the commission and the Consumer Advocate in writing of the completion of its phase-out plan.

D. By November 7, 2016, Sea Link shall: (1) file its 2016 Annual Financial Report (pro-rated basis); and (2) pay all of its remaining public utility fees due.

3. Upon Sea Link's completion of the conditions set forth in Ordering Paragraph No. 2, above, this docket shall be considered closed, unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii OCT 17 2016.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Randall Y. Iwase, Chair

By   
Lorraine H. Akiba, Commissioner

By   
Thomas C. Gorak, Commissioner

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel

2016-0214.rs

**PUC-IR-107**

Hypothetical: Sea Link's Letter Request to voluntarily surrender its CPCN is approved by the Commission.

Describe Sea Link's plan for phasing-out its water carrier operations, which include providing: (1) notice to its passengers/customers; and (2) refunds to passenger/customers for unused fares.

**RESPONSE:**

To prevent further risk of insolvency, subject to the Commission's approval, Sea Link intends to discontinue ferry operations ten days after the Commission approves the surrender of Sea Link's CPCN.

There are currently three classes of ticket holders:

1. Paper ticket holders who purchased tickets or coupon booklets before September 1, 2014 ("Paper Ticket Holders");
2. Electronic ticket holders who purchased online, by phone, or in person on or after September 1, 2014 ("E-Ticket Holders"); and
3. Pre-paid bulk order ticket holders such as businesses, schools, community groups, or government agencies that ordered tickets by purchase order ("Pre-Paid Bulk Ticket Holders").<sup>6</sup>

Upon receipt of the Commission's approval of Sea Link's surrender of its CPCN, Sea Link will provide (1) notice to its passengers/customers and (2) refunds to passengers/customers for unused fares, for each of the above classes, as follows:

---

<sup>6</sup> Tickets issued prior to September 1, 2014 were in the form of paper tickets. Tickets issued on or after September 1, 2014 are in the form of electronic tickets or pre-paid bulk orders. As such, all ticket holders fall into one of these three classes.

## Paper Ticket Holders

(1) Sea Link does not maintain contact information for Paper Ticket Holders. In an effort to reach these customers, Sea Link will publish written notice including the last date of ferry service and how to obtain refunds: (a) posted on Sea Link's website, [www.molokaiferry.com](http://www.molokaiferry.com); (b) printed in the Molokai Dispatch and the Lahaina News; (c) posted at Sea Link's ticket sales/terminal locations at Kaunakakai Harbor and the Hawaii Ocean Project booth at Lahaina Harbor; and (d) posted onboard Sea Link's passenger ferry, the Molokai Princess.

(2) Upon request of the Paper Ticket Holder, by the submission of a refund form ("Refund Form"), see Attachment 1, and surrender of an actual paper ticket or coupon booklet, Sea Link staff will issue refunds for the unused fares at the current ferry rates. The current ferry rates are as follows: Adults (One-Way) \$62.04, Child (One-Way) \$31.02, and Booklet \$286.92. Booklet tickets will be refunded according to unused tickets from a booklet. Refunds will be issued by means of Sea of Hawaii, Inc. company check and made payable to person who surrendered actual ferry ticket.

Refund Forms will be made available on Sea Link's website, [www.molokaiferry.com](http://www.molokaiferry.com), and at Sea Link's main office by mail by phone at (808) 661-3392, by email to [info@molokaiferry.com](mailto:info@molokaiferry.com), or by postal mail to 1036 Limahana Place, 3E, Lahaina, HI 96761.

For 60 days following the Commission's approval, or an alternate period that the Commission deems appropriate under the circumstances, completed Refund Forms may be mailed, along with unused paper tickets or coupons, to 1036 Limahana Place, 3E, Lahaina, HI 96761.

During the ten-day period, between which the Commission approves the surrender of Sea Link's CPCN and which Sea Link discontinues its ferry operations, or an alternate period that the Commission deems appropriate under the circumstances, Refund Forms will be made available and accepted, along with unused paper tickets, in person at:

- (a) Sea Link's ticket sales/terminal location at Lahaina Harbor from 6:30 a.m. to 7:30 a.m. on Tuesday, Thursday, Friday and Saturday, refund check will be mailed;
- (b) Sea Link's ticket sales/terminal location at Kaunakakai Harbor from 4 p.m. to 5 p.m. on Tuesday, Thursday, Friday and Saturday, refund check will be mailed; or
- (c) Sea Link's Main Office, located at 1036 Limahana Place, 3E, Lahaina, HI 96761, from 8 a.m. to 4 p.m. Monday to Friday.

#### E-Ticket Holders

(1) Sea Link requests phone numbers and/or email addresses at the time of sale and maintains this information on file, as provided to Sea Link, in its electronic reservation system. Sea Link will publish written notice including the last date of ferry service and how to obtain refunds: (a) posted on Sea Link's website, [www.molokaiferry.com](http://www.molokaiferry.com); (b) printed in the Molokai Dispatch and the Lahaina News; (c) posted at Sea Link's ticket sales/terminal locations at Kaunakakai Harbor and the Hawaii Ocean Project booth at Lahaina Harbor; and (d) posted onboard Sea Link's passenger ferry, the Molokai Princess. To the extent a valid phone number and/or email address has been provided to Sea Link, Sea Link's local office staff will also

contact E-Ticket Holders via phone and/or email to provide notice of the last date of ferry service and options for refunds.

(2) For 60 days following the Commission's approval, or an alternate period that the Commission deems appropriate under the circumstances, Sea Link will accept refund requests from E-Ticket Holders by phone at (808) 661-3392 or by email to info@molokaiferry.com.

Upon request of the E-Ticket Holder, via phone or email, Sea Link staff will cancel the E-Ticket Holder's electronic ticket and issue a refund in the amount actually paid for the ticket, as recorded in Sea Link's electronic ticketing system. Refunds can be (a) credited back to the credit card of the purchaser or credit card on record or (b) issued by Sea of Hawaii, Inc. company check and mailed to purchaser.

#### Pre-Paid Bulk Ticket Holders

(1) Sea Link maintains email addresses and/or phone numbers for Bulk Ticket Holders. To the extent a valid phone number and/or email address has been provided to Sea Link, Sea Link will notify Bulk Ticket Holders of the last date of ferry service and options for refunds via phone and/or email.

(2) During the 60 days following the Commission's approval, or an alternate period that the Commission deems appropriate under the circumstances, Sea Link will work with Bulk Ticket Holders to verify any unused fares and will issue refunds, if any, by Sea of Hawaii, Inc. company check mailed to the Bulk Ticket Holder.



**MOLOKAI FERRY REFUND FORM FOR PAPER TICKET ONLY**

Form must be completed and mail to:

Sea Link of Hawaii, Inc.  
1036 Limahana Place, 3E  
Lahaina, HI 96761

Or

Submitted in person at the following locations

1. Lahaina harbor from 6:30 a.m. to 7:30 a.m. on Tuesday, Thursday, Friday and Saturday (in person) and refund check mailed
2. Kaunakakai harbor from 4 p.m. to 5 p.m. on Tuesday, Thursday, Friday and Saturday (in person) and refund check mailed
3. Office at 1036 Limahana Place, 3E from 8 a.m. to 4 p.m. Monday to Friday

|                   |  |  |
|-------------------|--|--|
| First Name:       |  |  |
| Last Name:        |  |  |
| Address:          |  |  |
| City:             |  |  |
| State/Zipcode:    |  |  |
| Phone Number:     |  |  |
| Email (optional): |  |  |

Actual ferry ticket must be stapled (attached) on this form to process refund.

Refund is only permitted for unused ferry tickets purchased.

Must print and written legibly

Electronic ticket refund can be requested by calling 808.661.3392 or email to [info@molokaiferry.com](mailto:info@molokaiferry.com)



CERTIFICATE OF SERVICE

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

DEAN NISHINA  
ACTING EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P.O. Box 541  
Honolulu, HI 96809

CARLITO P. CALIBOSO, ESQ.  
WIL K. YAMAMOTO, ESQ.  
YAMAMOTO CALIBOSO  
1099 Alakea Street  
Suite 2100  
Honolulu, HI 96813

Counsel for SEA LINK OF HAWAII, INC.