

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
335 Merchant Street, Room 326
Honolulu, Hawaii 96813
Telephone: (808) 586-2800

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	Short-Notice Tariff Filing
YOUNG BROTHERS, LIMITED)	
)	Transmittal No. 20-0003
For Approval of Emergency Changes to its)	
Sailing Schedule.)	Effective Date: May 5, 2020

DIVISION OF CONSUMER ADVOCACY'S
JUNE 3, 2020 STATEMENT OF POSITION

Pursuant to the Hawaii Public Utilities Commission's ("Commission") Rules of Practice and Procedure, Hawaii Administrative Rules ("HAR") §§ 16-601-62 and 16-601-60, the Division of Consumer Advocacy ("Consumer Advocate") informs the Commission that it has completed its expedited review of the letters filed by Young Brothers, LLC ("YB" or "Company") on May 28, 2020, and on June 3, 2020, both seeking Commission approval to extend the authority to continue providing services based on the modified sailing schedule approved in Order No. 37128, Approval of Young Brothers' Temporary, Emergency Changes to Its Sailing Schedule, filed on May 4, 2020 ("Order No. 37128").¹ Based upon that expedited review, the Consumer Advocate hereby states

¹ The Commission's Order No. 37128 was filed in response to YB's tariff Transmittal No. 20-0003, wherein YB sought approval to reduce its sailings to the ports in Maui, Hilo, and Molokai, as well as a change in scheduled departure/arrival day for the island of Lanai.

that it does not object to YB's request to extend the modified schedule but recommends that certain conditions should be imposed. The basis for the Consumer Advocate's recommendation is discussed below.

I. BACKGROUND.

In its Statement of Position filed on April 29, 2020 ("April SOP"), the Consumer Advocate included background on YB's requested relief and incorporates that discussion.

Since May 4, 2020, consistent with the expectations and concerns discussed in the Consumer Advocate's April SOP, numerous concerns were raised in public comments in response to the sailing schedule change. Those comments were generally opposed to the changes in the sailing schedules. Some of those comments, in an effort to recognize YB's current financial situation, requested that, if the sailing schedule changes had to be retained, slight modifications to the revised sailing schedule would better meet the needs of customers. Consistent with the condition set forth in Order No. 37128, YB has been meeting with certain customers to better understand the needs and possible solutions.

On May 28, 2020, YB filed a letter requesting that the Commission extend the modified sailing schedule that was approved in Order No. 37128, which was consistent with Order No. 37128 given that the Commission granted only temporary authority to modify the sailing schedule. As stated in Order No. 37128, "Transmittal No. 20-0003, filed by YB on April 24, 2020, is approved for thirty (30) days, subject to the conditions

set forth herein.”² YB was required to file additional information that the Commission would consider “to determine whether these sailing schedule changes approved . . . are justified in continuing beyond the thirty (30) day period set forth in this Order.”³

Subsequently, on June 3, 2020, YB filed a letter that sought to further modify the sailing schedule approved in Order No. 37128 to: 1) change the Hilo sailing from Thursday (departs Honolulu on Tuesday) to Monday (departs Honolulu on Saturday); 2) as a result of that change, YB would also add a sailing that would arrive at Kaunakakai on Wednesday; and 3) YB would change the sailing to Kaumalapau to arrive on a Wednesday (before continuing on to Kaunakakai on Wednesday afternoon).

II. **DISCUSSION.**

Consistent with the discussion offered in the Consumer Advocate’s April SOP, the Consumer Advocate believes that YB’s current financial condition still requires immediate attention and that extending the modified sailing schedule, including the changes identified in YB’s June 3, 2020 letter, is necessary until further investigation of YB’s condition and possible solutions can be explored in the recently opened Docket No. 2020-0084.

The Consumer Advocate makes clear, however, that this non-objection to the requested relief is with the intent of trying to maintain services to customers and that the notion that YB may be considering additional decreases in their services⁴ is extremely

² Order No. 37128, at 15.

³ Id, at 16.

⁴ See, e.g., references to YB’s intent to reduce (or partially suspend) less than container load services in YB’s May 29, 2020 letter.

troubling. The Consumer Advocate is also troubled that, notwithstanding the clear guidance offered in Order No. 37128, in YB's May 28, 2020 letter, which even references the Commission imposed conditions, the required information to allow further assessment of whether cargo was being left behind,⁵ better understanding whether the schedule changes correlated with decreases in cargo, and metrics and benchmarks that are being monitored, were not provided. The Consumer Advocate also notes that in the June 3, 2020 letter, YB is proposing additional sailing schedule changes but offers no insight into whether the changes will increase, have no effect, or decrease the operating expenses.

Thus, even though the Consumer Advocate is not objecting to the extension of the modified sailing schedule nor the additional changes that YB requested on June 3, 2020, the Consumer Advocate continues to urge the Commission to require additional information to not only assess YB's financial condition but also require information that will allow the Commission and Consumer Advocate to better understand current impact on services and customers.

III. RECOMMENDATION.

The Consumer Advocate believes that there is sufficient cause related to YB's financial condition that the request to extend the effective date of the modified sailing schedule, including the changes identified in YB's June 3, 2020 letter, should be allowed on a temporary basis. The Consumer Advocate continues to urge the Commission to require YB to provide additional information and to explore cost cutting measures and

⁵ Contrary to YB's assertions, the Consumer Advocate has received public comments suggesting that cargo has not been transported in a timely manner.

alternative solutions that do not necessarily involve the reduction or suspension of customer service.

DATED: Honolulu, Hawaii, June 3, 2020.

Respectfully submitted,

By /s/ Dean Nishina
DEAN NISHINA
Executive Director

DIVISION OF CONSUMER ADVOCACY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S JUNE 3, 2020 STATEMENT OF POSITION** was duly served upon the following parties electronically to the e-mail addresses below pursuant to HAR § 16-601-21(d), as modified by Order No. 37043 Setting Forth Public Utilities Commission Emergency Filing And Service Procedures Related To COVID-19, filed on March 13, 2020.

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DATED: Honolulu, Hawaii, June 3, 2020.

/s/ L.Matsumoto_____