

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	)	
<u>Sailing Schedule.</u>	)	Effective Date: May 5, 2020

**DIVISION OF CONSUMER ADVOCACY'S**  
**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 tariff transmittal submitted by Young Brothers, LLC ("YB" or "Company") on April 24, 2020. Based upon that expedited review, the Consumer Advocate hereby states that it does not object to YB's requested relief but recommends certain conditions that the Commission should adopt. The basis for the Consumer Advocate's recommendation is discussed below.

**I. BACKGROUND.**

On April 24, 2020, YB filed its request as a short-notice filing pursuant to the Commission's HAR §§ 16-601-111 and -112 and §§ 16-605-5, -30, -40, and -41. YB seeks Commission authority to modify the Commission approved sailing schedules as follows:

- 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.
- 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.
- 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.
- Sailings between Honolulu and Kaunapali will be modified by changing the one sailing from a Tuesday/Wednesday (Honolulu to Kaunapali) and Wednesday/Thursday (Kaunapali to Honolulu) to Saturday/Sunday (Honolulu to Kaunapali) and Sunday/Sunday (Kaunapali to Honolulu) sailings.

YB requests that the effective date of the changes to its sailing schedules become effective on May 5, 2020.

## II. DISCUSSION.

In YB's filing, the Company highlights how, "in response to the current COVID-19 pandemic and the rapidly evolving circumstances surrounding YB's operations" and a "drastic drop in cargo volumes and revenues,"<sup>1</sup> the Company is seeking to cut costs by reducing the number of sailings. In support of the requested relief, YB provides data that compares the cargo and revenues in 2019 and 2020 that illustrates a drop of about 22.7%<sup>2</sup> YB contends that the decrease in cargo is estimated to result in a \$11 million decrease in revenues for the year. YB contends that if the proposed modifications are allowed, it would save an annualized amount of about \$6 million<sup>3</sup> and further offers that, "based on current cargo volumes for subject sailings, no cargo will have to be left behind"<sup>4</sup> as a result of the proposed changes. Finally, YB offers that the proposed sailing schedules will be kept in "place until further notice based on cargo volumes and a combination of factors regarding the COVID-19 crisis."<sup>5</sup>

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<sup>1</sup> Transmittal, at 1.

<sup>2</sup> Transmittal, at 4 – 6.

<sup>3</sup> Transmittal, at 8.

<sup>4</sup> Transmittal, at 8.

<sup>5</sup> Transmittal, at 8.

**A. APPLICABLE AUTHORITY.**

In its Transmittal, YB cites HAR §§ 16-601-111 and -112 and §§ 16-605-5, -30, -40, and -41 as the relevant authority for the Commission to review and approve the requested relief. The Consumer Advocate agrees that the Commission has the authority to grant the requested relief and could, pursuant to HAR § 16-605-41(c), take action as soon as four business days after a short-notice tariff has been filed,<sup>6</sup> if necessary. Given the circumstances, the Consumer Advocate has expedited its review so that the Commission can take timely action to address the relief sought.

**B. THERE APPEARS TO BE A NEED FOR THE REQUESTED RELIEF.**

As set forth in the tariff transmittal, due to the ongoing pandemic, there has been an observed decrease in YB's recorded cargo volume and revenues. If unaddressed, YB losses due to the decreased shipment of cargo in Hawaii will be greater and could affect the long-term viability of YB. The Consumer Advocate notes that, as opposed to simply requesting the sailing schedule modifications, YB has identified other cost reduction measures that it is pursuing; thus, YB is not simply looking to reduce service to consumers to reduce its costs. The Consumer Advocate appreciates that this additional information is provided and contends that, especially in this particular instance, YB should be aggressively seeking to reduce its costs for many reasons, including avoiding the appearance that YB is not mindful of the impact that schedule changes might have on customers and has not evaluated all options before pursuing schedule changes. It should

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<sup>6</sup> HAR § 16-605-41(c) states that the Commission "shall not take any action on the application for at least three working days after service is made" to allow parties to file objections.

be noted that in its review of the Company's ongoing rate request increase in Docket No. 2019-0117, the Consumer Advocate notes that YB's test year estimates support the need for further inquiry to determine YB's efforts to moderate the magnitude of the rate request increase.

As noted earlier, based on available data, YB contends that the decreases in cargo could result in an \$11 million loss of revenues over the remainder of 2020. In the absence of additional information, the Consumer Advocate believes that the proposed sailing schedule modifications should be allowed but that YB should be required to provide additional information to provide better context of how the requested relief represents the most reasonable course of action. For instance:

- YB's proposed sailing schedules for certain islands will result in an effective halving of the cargo capacity (i.e., by reducing the trips to an island from two to one) but the observed decreases in cargo by destination range between 15.8% (Molokai) to 69% (Lanai). Additional information to better support how the proposed schedule changes correlate to the destination-specific decreases in cargo and why the proposed sailing schedule changes will not result in any cargo being left behind would be useful. Depending on the information provided, there should be discussion and evaluation of whether the capacity of its marine and shoreside equipment is greater than needed and the possible exploration of sales and leasebacks or sales and leasing of lower capacity assets to help lower YB's capital and O&M costs.

- YB has not provided any information about the outreach that it has pursued to help customers plan for the potential changes that will occur. Given the proposed changes, certain shippers/customers who may have just-in-time inventory strategies or complex supply chain issues may need time to avoid disruptions and consumer complaints. Young Brothers sent a copy of a customer notice dated April 24, 2020, informing customers of the proposed sailing schedule changes but that information was not part of the filing. Any information discussing the steps Young Brothers has taken or will take to inform customers of the changes, address their concerns, and minimize customer disruptions should be provided.
- In its request, YB indicates that the proposed sailing schedule will stay in place until cargo volumes and a combination of factors regarding the COVID-19 crisis change. In addition, YB stated in their letter to customers dated April 24, 2020 that YB will also be converting one or two days of regular gate hours (7:30 a.m. – 3:30 p.m.) to half-day operations (7:30 a.m. – 11:30 a.m.) at all ports. With these changes, the Consumer Advocate believes that additional information that identifies, for example, what metrics and benchmarks YB is monitoring and the thresholds that might trigger further changes would be useful information for the Commission and Consumer Advocate.

The Consumer Advocate notes that the Commission filed a letter in Docket No. 2019-0117 on April 24, 2020, that is seeking additional information about the changes in cargo and revenues, as well as suggestions and proposals to address COVID-19

impacts and that such information should be provided in Docket No. 2019-0117 by May 5, 2019 (the proposed effective date of the proposed sailing schedule changes). Recognizing the situation, the Consumer Advocate does not recommend that the information identified above needs to be provided by May 5, but strongly urges the Commission to require the provision of such information to facilitate further discussions about potential measures that may be required (as well as when such measures may be relaxed). The Consumer Advocate also recommends that Young Brothers provides its preferred contact information so that if customers, legislators, or other inquiries come in to question why the proposed sailing schedules were made (assuming that the Commission will approve the requested changes), the Commission and Consumer Advocate can direct such calls to the best contact person.

Notwithstanding the recommendation that certain information can be provided after May 5, the Consumer Advocate believes that YB should provide certain information prior to May 5 to clarify its requested relief. That information should be: 1) whether YB is actually proposing the schedule change between Kaumalapau and Kaunakakai where the barge will leave Kaumalapau on Sunday and arrive at Kaunakakai on Sunday;<sup>7</sup> and 2) since the proposed change to the sailing schedule to Lanai does not involve a decrease in the number of sailings, some explanation in the record to help justify the requested relief.<sup>8</sup>

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<sup>7</sup> Since the current sailing schedule reflects a departure on Wednesday pm and arrival on Thursday am, it is not clear whether the proposed change is feasible (i.e., departure on Sunday pm and arrival on the same day in the pm). If the current filing reflects an error, it should be corrected as soon as possible.

<sup>8</sup> The Consumer Advocate assumes that the proposed changes to the sailings to and from Kaumalapau might be related to the changes involving the sailings to and from Kaunakakai but having that reason in the record would be useful.

**III. RECOMMENDATION.**

As noted above, the Consumer Advocate believes that there is sufficient cause related to YB's financial condition that the requested sailing schedule changes should be expeditiously allowed on a temporary basis. As offered above, the Consumer Advocate believes that additional information should be provided – certain information should be provided on an expedited basis before May 5 and other information, which might take more time to provide, can be provided after May 5 – as conditions to the Commission's approval. The Consumer Advocate anticipates that additional information and discussion will be necessary to address YB's financial condition throughout and after the COVID-19 pandemic.

DATED: Honolulu, Hawaii, April 29, 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 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.

JEFFREY T. ONO, ESQ.  
DAVID Y. NAKASHIMA, ESQ.  
JOHN E. DUBIEL, ESQ.  
Watanabe Ing LLP  
999 Bishop Street, 23<sup>rd</sup> Floor  
Honolulu, HI 96813  
E-mail: [jono@wik.com](mailto:jono@wik.com)  
[dnakashima@wik.com](mailto:dnakashima@wik.com)

DATED: Honolulu, Hawaii, April 29, 2020.

/s/ L.Matsumoto \_\_\_\_\_

FILED

2020 Apr 29 PM 14:41

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