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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the Application of )  
 )  
 MAUNA LANI STP, INC. )  
 )  
 For Review and Approval of Rate )  
 Increases; Revised Rate Schedules. )  
 \_\_\_\_\_ )

DOCKET NO. 02-0392

DECISION AND ORDER NO. 20405

Filed August 29, 2003  
At 1:00 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.  
K. Higashi



On December 5, 2002, pursuant to a Stipulation for Protective Order entered into between the Parties on November 13, 2002, the commission issued Protective Order No. 19847 setting forth the procedures for dealing with privileged and confidential information that may be requested and/or filed in the instant docket.

On January 9, 2003, the commission held a public hearing on the application to hear oral testimony on the proposed rate increase in the Ballroom of the Mauna Lani Bay Hotel, 68-1400 Mauna Lani Drive, Kohala Coast, Hawaii, pursuant to HRS §§ 269-12 and 269-16.

On January 29, 2003, the commission issued Order No. 19990 requiring the Parties to informally meet and formulate the issues, procedures, and schedule with respect to the proceedings in the instant docket.

Pursuant to Order No. 19990, on February 27, 2003, the Parties filed a Stipulated Prehearing Order, which established the issues and the procedural schedule in this docket. By Order No. 20058, filed on March 6, 2003, the commission approved, with the exception of the date for the evidentiary hearing, the Stipulated Prehearing Order filed by the Parties ("Stipulated Prehearing Order").<sup>1,2</sup>

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<sup>1</sup>The Stipulated Prehearing Order filed by the Parties on February 27, 2003 provided that the evidentiary hearing would occur on September 24, 2003. The commission modified this provision by stating that the commission would set the date of the evidentiary hearing in the event no settlement was reached between the Parties.

<sup>2</sup>The Stipulated Prehearing Order also approved the waiver by the Parties of the nine-month deadline for the issuance of a final decision, pursuant to HRS § 269-16(d). Prior to the Parties'

Pursuant to the Stipulated Prehearing Order, as amended by Order No. 20206,<sup>3</sup> filed on May 29, 2003 and Order No. 20346,<sup>4</sup> filed on July 21, 2003, the Parties submitted the following discovery: (1) on March 3, 2003, the Consumer Advocate filed its information requests ("IRs") to Applicant; (2) Applicant filed its responses to the Consumer Advocate's IRs on March 21, 2003; (3) on April 10, 2003, the Consumer Advocate filed its submission of supplemental IRs to Applicant; and (4) Applicant filed its responses to these supplemental requests on April 25, 2003.

On May 28, 2003, based on the information provided in the application and during the discovery process described above, the Consumer Advocate filed its Direct Testimonies, Exhibits and Workpapers ("Direct Testimonies") setting forth its position relating to the issue of rate relief for Applicant presented in the instant docket.

On or about June 6, 2003, Applicant made a settlement offer to the Consumer Advocate. Thereafter, the Parties conducted various informal discussions relating to Applicant's offer of settlement. On July 16 and 17, 2003, the Parties held settlement

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waiver of the nine-month deadline, a final decision by the commission was due on or before August 1, 2003.

<sup>3</sup>Order No. 20206, filed on May 29, 2003, amended the procedural schedule set forth in the Stipulated Prehearing Order and allowed the Consumer Advocate additional time to file its Direct Testimonies.

<sup>4</sup>Order No. 20346, filed on July 21, 2003, amended the procedural schedule set forth in the Stipulated Prehearing Order for a second time and allowed the Parties time to prepare and submit a settlement agreement in lieu of Applicant's rebuttal testimonies, the Consumer Advocate's rebuttal IRs, and the evidentiary hearing.

discussions to address their differences on the amount of rate relief to which Applicant is entitled. On July 25, 2003, the Parties filed the Stipulation of Settlement Agreement in Lieu of Rebuttal Testimonies and Evidentiary Hearing ("Stipulation").

## II.

### Stipulated Issues

The test year in this rate proceeding is January 1, 2003 to December 31, 2003 ("Test Year").<sup>5</sup> As set forth in the Stipulated Prehearing Order, the stipulated issues in this docket are as follows:

1. Is Applicant's proposed rate increase reasonable?
  - a. Are the proposed tariffs, rates, and charges just and reasonable?
  - b. Are the revenue forecasts for the Test Year ending December 31, 2003 at present rates and proposed rates reasonable?
  - c. Are the projected operating expenses for the Test Year reasonable?
  - d. Is the projected rate base for the Test Year reasonable, and are the properties included in the rate base used or useful for public utility purposes?
  - e. Is the rate of return requested fair?

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<sup>5</sup>HAR § 6-61-88(3)(B).

III.

Applicant

Applicant holds a commission-issued certificate of public convenience and necessity to provide wastewater services to the residents and occupants of the Mauna Lani Resort area, on the island of Hawaii.<sup>6</sup> Applicant's wastewater system currently consists of a collection system, pumping and aeration facilities, sewage treatment lagoons, an access road, a pumping station, and force main.

Applicant currently serves three hotels with 954 hotel rooms, 17 commercial establishments, 272 condominium units through four condominium associations, and 56 residential units through four homeowners' associations.

Pursuant to Decision and Order No. 7377, filed on December 29, 1982, in Docket No. 4692, the commission approved Applicant's current rate design as follows:

<u>Customer Class</u>	<u>Authorized Charge</u>
Condominiums	\$27.50 per month per dwelling unit
Hotels	\$27.50 per month per hotel room

Applicant sought commission approval for a test year revenue increase of \$562,729 over present rates,<sup>7</sup> which it stated

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<sup>6</sup>See, Decision and Order No. 7377, filed on December 29, 1982, in Docket No. 4692.

<sup>7</sup>In its application, Applicant originally sought a revenue increase of \$554,609 over present rates, and later amended this amount to \$562,729 due to adjustments to projected revenues from customers and the proposed stand-by charges.

that it believed would allow it to achieve a calculated return on the average rate base of 10 per cent.

Applicant proposed to achieve its rate increase by using various methods. First, it proposed to increase the rate per dwelling unit and hotel room for condominiums and hotels, respectively, from \$27.50 to \$48.46 per month. Next, it proposed to establish two additional customer classes for its commercial customers and for the homeowners' associations in the service area. Applicant proposed to charge its commercial customers a monthly service charge of \$48.46, per equivalent unit, calculated based on estimated water usage<sup>8</sup> and to charge the homeowners' associations a monthly service charge of \$48.46, per equivalent unit, calculated based on the number of square feet of the dwelling unit to a base of 1,945 square feet. Finally, Applicant proposed to assess a \$24.23 monthly stand-by charge to four customer classes: (1) Per equivalent unit to any lot that has a sewer line available to provide service, but to which service is not being provided; (2) Per equivalent unit to commercial customers (to be based on water usage and calculated in the same fashion as the monthly charges are determined); (3) Per unit to condominiums, based upon the number of total planned units to be connected multiplied by the stand-by rate; and (4) Per equivalent unit to the homeowners' associations, based upon the ratio of the number of square feet of

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<sup>8</sup>Commercial customers were charged on the basis of estimated water usage and a pro-forma equivalent, based on water consumption. Equivalent units and the resulting monthly charges for commercial customers were determined by use of formula designed for four categories: (1) restaurants; (2) sports center; (3) shopping center/office; and (4) golf course. See, ML 11-2 at 6.

the residential plot to a base of 43,560 square feet, multiplied by 4,400 gallons of assumed water usage, multiplied by the stand-by rate for each undeveloped residential lot within the homeowners' association.

Applicant represents that since its rates were approved in 1982, its operating expenses increased more quickly than operating revenues and the configuration of its customers changed from hotels, condominiums, and commercial customers to include single family units, decreasing the average revenue per unit from the amount anticipated in 1982.

#### IV.

##### Stipulation in Lieu of Rebuttal Testimonies and Evidentiary Hearing

The Stipulation is an attempt by the Parties to resolve all issues in this docket without holding an evidentiary hearing, pursuant to HAR § 6-61-35. HAR § 6-61-35 provides that "[w]ith the approval of the commission, any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default." See also, HRS § 91-9. The Stipulation is comprised of proposed agreements of the Parties and a formal resolution of all issues in this docket.<sup>9</sup> Specifically, the Stipulation provides, in relevant part, that:

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<sup>9</sup>We will also treat the Stipulation as a request by the Parties, pursuant to HAR § 6-61-35, to waive the evidentiary hearing. See also, HRS § 91-9. We approve the Parties' request to waive the right to an evidentiary hearing, in this instance.

The Parties agree that the following provisions of this Stipulation are binding as between them with respect to the specific issues and matters to be resolved in the subject docket. In all respects, it is understood and agreed that the agreements evidenced in [the] Stipulation represent compromises by the Parties to fully and finally resolve all issues in the subject docket on which they had differences for the purpose of simplifying and expediting this proceeding, and are not meant to be an admission by either of the Parties as to the acceptability or permissibility of matters stipulated to herein. The Parties reserve their respective rights to proffer, use and defend different positions, arguments, methodologies, or claims regarding the matters stipulated to herein in other dockets or proceedings. Furthermore, the Parties agree that nothing contained in [the] Stipulation shall be deemed to, nor be interpreted to, set any type of precedent, or be used as evidence of either Parties' position in any future regulatory proceeding, except as necessary to enforce [the] Stipulation.

The Stipulation also states that "[e]ach provision of [the] Stipulation is in consideration and support of all other provisions, and is expressly conditioned upon acceptance by the [c]ommission of the matters expressed in [the] Stipulation in their entirety."

In considering the Stipulation, the commission has the independent obligation to determine if its provisions are reasonable and in the public interest. While we strive to respect the basic underlying agreements and conditions made by the parties as expressed in the Stipulation, we must undertake an independent review to, among other things, ensure that the interests of the public (Applicant's customers who are affected by the rate increase, in particular) are protected.

Upon our review of the entire record in this case, we find that the proposed agreements and conditions set forth in the

Parties' Stipulation to be reasonable and in the public interest. We also find that our approval of the Stipulation in its entirety will assist in expediting and facilitating the ratemaking process.

Accordingly, subject to several clarifications, discussed herein, we conclude that the proposed agreements and conditions set forth in the Parties' Stipulation should be approved in its entirety and made a part of this decision and order.

The Parties should be advised, however, that commission review and approval of the Stipulation is based primarily on the Parties' representation that there are no remaining differences in this proceeding and that the Parties desire to resolve and dispose of the entire case by means of the Stipulation. As a result, our approval of the Stipulation in its entirety shall not be used or cited by any party or person as precedent in any other proceeding before the commission or before any court of law for any purpose, except in furtherance of the purposes and results of the Stipulation. As discussed below, we will from time to time state in this decision and order that the stipulated estimates are either reasonable or acceptable. Such statements shall not be read or construed as necessarily approving the methodology by which the stipulated estimates were derived, and the commission will, therefore, not be bound by the stipulated estimates in future rate cases.

#### V.

##### Stipulated Revenues

In its application, Applicant originally sought a Test Year revenue amount of \$1,068,291. This amount was later

increased to \$1,076,411 due to the adjustments made to Applicant's projected revenues from customer and stand-by charges. The Consumer Advocate proposed a Test Year revenue amount of \$583,204. The Parties settled on a Test Year revenue amount of \$874,297, consisting of \$715,710 in total operating expenses and/or revenue deductions and \$158,587 in net operating income based on a stipulated 10 per cent rate of return on Applicant's stipulated rate base amount of \$1,585,294. This amounts to a revenue increase of \$360,258, or approximately 70.1 per cent.

We find the stipulated revenues of \$874,297 to be reasonable for the Test Year.

## VI.

### Stipulated Operating Expenses

The Parties agreed to the following negotiated operating expense items:<sup>10</sup>

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<sup>10</sup>The Parties negotiated some of the operating expense items: repair and maintenance expenses; the amortization of emergency repair expenses and extraordinary repair and maintenance expenses; travel and automobile expenses; telephone expenses; allocation of charges to Mauna Lani Resorts; and the amortization of rate case expenses. The remaining operating expense items were either accepted by the Consumer Advocate (e.g., salaries and wages, employee benefits, water expenses, general insurance expenses and "other operating expenses") or were accepted by Applicant in response to the recommended adjustments set forth in the Consumer Advocate's Direct Testimonies (e.g., electricity costs and uncollectible expenses).

A.

Repair and Maintenance

Applicant originally proposed an expense amount for repair and maintenance of \$12,536 and later reduced it to \$11,975. The Consumer Advocate proposed the amount of \$6,395.<sup>11</sup> The Parties agreed on a repair and maintenance amount of \$6,864. We find the stipulated repair and maintenance expense to be reasonable.

B.

Repair and Maintenance Machinery and Equipment

In the application, Applicant proposed an expense amount for repair and maintenance machinery and equipment of \$12,079. Applicant later reduced this amount to \$11,564. The Consumer Advocate proposed an amount of \$10,290. During settlement discussions, Applicant agreed to utilize the Consumer Advocate's proposed amount, as adjusted to reflect the Parties' agreement to

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<sup>11</sup>The difference between the Parties' respective proposed amounts was due to two factors: (1) the application by Applicant of the West Urban Area Consumer Price Index ("CPI") to restate prior year expenses in order to forecast certain expenses for the Test Year, and (2) the Consumer Advocate's concerns with Applicant's inclusion of expenses for repairs to the lagoon liner, the effluent pump, and a force main rupture that the Consumer Advocate believed were non-recurring, unusual and/or extraordinary and, thus, not includable as part of the Test Year operating expenses. For settlement purposes, the Consumer Advocate agreed to use a CPI index for Honolulu, which resulted in the use of an inflation factor of two per cent for the year 2003. In addition, the Parties agreed to remove the repair costs of the lagoon liner and effluent pump from the repair and maintenance expense and to amortize the costs with the cost to repair the force main rupture.

use an inflation rate factor of two per cent for 2003.<sup>12</sup> Based on this methodology, the Parties settled on an amount of \$10,720 for Applicant's repair and maintenance machinery and equipment expenses. We find Test Year repair and maintenance machinery and equipment expenses amount to be appropriate.

C.

Repair and Maintenance Resort Maintenance

Applicant proposed an expense amount for repair and maintenance resort maintenance of \$37,824, which it later reduced to \$36,358. The Consumer Advocate proposed \$33,266 as the amount for such expense. During settlement negotiations, Applicant agreed to use the Consumer Advocate's proposed amount, as adjusted by the inflation rate factor of two per cent for 2003, as agreed by the Parties.<sup>13</sup> Based on this agreement, the Parties settled upon an amount of \$34,490 for Applicant's repair and maintenance resort maintenance expense. We find the stipulated amount for repair and maintenance resort maintenance expense to be reasonable.

D.

Repair and Maintenance Chemicals

Applicant proposed an expense amount for repair and maintenance chemicals of \$17,576, which was later reduced by Applicant to \$16,942. The Consumer Advocate proposed \$16,426, which differed from Applicant's number because the Consumer

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<sup>12</sup>See, supra footnote 10.

<sup>13</sup>See, supra footnote 10.

Advocate did not include an amount for CPI adjustment. As a result of the Parties' agreement to use the inflation rate factor of two per cent for 2003,<sup>14</sup> the Parties agreed to an amount of \$16,942 for repair and maintenance chemicals expense. We find the Test Year amount for repair and maintenance chemicals to be reasonable.

E.

Repair and Maintenance Other

Applicant proposed an expense amount of \$4,663, which Applicant later reduced to \$4,484 for repair and maintenance other. The Consumer Advocate proposed \$6,723 for the same expense account. During the settlement discussions, the Parties agreed to use the Consumer Advocate's proposed expense amount, as adjusted by the inflation rate factor of two per cent for 2003.<sup>15</sup> Accordingly, the Parties settled on \$7,095 for Applicant's repair and maintenance other expenses. We find the amount for Applicant's repair and maintenance other expenses to be reasonable.

F.

Amortization of Emergency Repair Expenses  
and Extraordinary Repair and Maintenance

As mentioned above, the Parties agreed to remove from the Test Year repair and maintenance general expenses account the repair costs associated with the lagoon liner, the effluent pump, and the force main rupture. In its place, the Parties agreed to create separate expense accounts to reflect the amortization of

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<sup>14</sup>See, supra footnote 10.

<sup>15</sup>See, supra footnote 10.

these costs in an aggregate amount of \$10,962 (or \$8,406<sup>16</sup> in amortized emergency repair expenses and \$2,556<sup>17</sup> in amortized extraordinary repair and maintenance expenses). Applicant stated that it is reasonable to include some level of costs due to unexpected repairs in the Test Year revenue requirement, in light of the fact that the existing plant is aging. The Consumer Advocate countered that there is no data upon which to assess the likelihood and interval of the need for such repairs. Applicant agreed to maintain a record of all such expenses in excess of \$10,000 for review in Applicant's next rate case.<sup>18</sup> The Consumer Advocate conceded that there is some merit to Applicant's position and agreed to the inclusion of the amortized extraordinary costs in the Test Year expenses. We find that the information requested by the Consumer Advocate will prove helpful in the next rate case, and the inclusion of the amortized amount of \$10,962 in the Test Year operating expenses is appropriate.

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<sup>16</sup>The stipulated amount of amortized emergency repair expenses was calculated by amortizing the \$84,060 repair costs related to the force main rupture over a 10-year period.

<sup>17</sup>The stipulated amount of amortized extraordinary repair and maintenance expenses was calculated by amortizing the \$9,152 repair costs related to the effluent pump and the \$16,406 repair costs associated with the lagoon liner over a 10-year period.

<sup>18</sup>Specifically, the Consumer Advocate recommends that Applicant include in its record, at a minimum, the following: (a) support for the expenditures (including invoices and a description of the nature of the work performed); (b) a statement explaining why each particular expense was or should not be capitalized; and (c) a statement explaining why each particular expenditure is not to be considered an ordinary repair and maintenance expense item that is expected to occur periodically, or in the alternative, a statement providing an estimated recurrence time for that particular expenditure item.

G.

Travel and Automobile Expense

Applicant proposed an amount of \$2,437, and later \$2,341 for its travel and automobile expenses. The Consumer Advocate proposed an amount of \$2,262, which only differed from Applicant's proposed expense by the amount of the CPI adjustment used by Applicant. As a result of the Parties' agreement to use the inflation rate adjustment,<sup>19</sup> the Parties agreed to a Test Year travel and automobile expense amount of \$2,341. After review, we find the amount for travel and automobile expenses to be reasonable.

H.

Telephone Expenses

Applicant proposed an expense amount of \$2,065, which was later reduced to \$1,991 for its telephone expenses. The Consumer Advocate proposed to use \$1,929, which only differed by the amount attributable to the CPI adjustment used by Applicant in its calculation. Since the Parties agreed to utilize the inflation rate adjustment of two per cent for 2003,<sup>20</sup> the Parties settled on a Test Year expense amount of \$1,991 for telephone expenses. We find the amount for telephone expenses to be appropriate.

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<sup>19</sup>See, supra footnote 10.

<sup>20</sup>See, supra footnote 10.

I.

Allocated Charges to Mauna Lani Resort

Applicant proposed an expense amount of \$150,901 for its allocated charges for services provided to Applicant by Mauna Lani Resorts. The proposed Test Year forecast amount was calculated by Applicant applying a two per cent rate of inflation to its 2002 budgeted amounts. The Consumer Advocate proposed an amount equal to \$134,432, which was based instead on Applicant's actual 2002 allocated expenses with no adjustment for inflation. During the settlement discussion, Applicant agreed to use the Consumer Advocate's methodology of using the 2002 actual expenses, and the Consumer Advocate agreed to allow for a two per cent increase over the actual 2002 figures for this expense item. The result was an agreed amount of \$137,121 for allocated charges to Mauna Lani Resorts. We find the methodology used to be appropriate and the expense amount to be reasonable.

J.

Amortization of Rate Case Expenses

Applicant proposed an amount of amortized rate case expenses of \$77,000. The Consumer Advocate proposed an amount equal to \$15,400, which made certain adjustments to Applicant's proposed rate case expenses and amortized the expenses over a 10-year period instead of the three-year period utilized by Applicant. During the settlement discussions, Applicant agreed to adopt the Consumer Advocate's proposed expense adjustments,<sup>21</sup>

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<sup>21</sup>See, CA-T-3 at 31-35.

recognizing, among other things, that an early settlement of the issues would result in certain savings on the cost of the rate case expenses, such as the costs of preparing rebuttal testimonies and briefs. The Parties agreed to use a five-year amortization period for the rate case expenses, since Applicant believed that the time period best approximated the timeframe in which it would file its next rate case. Accordingly, the Parties agreed to amortize Applicant's rate case expenses over a five-year period, which resulted in a stipulated Test Year amount of \$30,800. We find the reasoning behind the adjustments to the total expense amount and amortization period to be cogent and the expense amount of \$30,800 to be appropriate.

K.

Other Operating Expenses

During the discovery phase of this docket, the Parties agreed to the amounts for certain operating expenses. As a result of this early agreement, not all of the operating expenses were discussed in the Stipulation in detail. In particular, the Consumer Advocate accepted Applicant's expense amounts for salaries and wages, employee benefits, water charges, general insurance expenses, and other operating expenses. In addition, Applicant accepted adjustments made by the Consumer Advocate to its electricity costs and uncollectible expenses. The Parties agreed that the amounts for these expenses are as follows:

Salaries and Wages	\$84,490
Employee Benefits	\$29,285
Electricity Charges	\$47,953
Water Utility Charges	\$16,074
General Insurance	\$ 8,801
Uncollectible Expense	\$ 0
Other Operating Expenses	\$14,700

We find that the foregoing amounts are reasonable.

## VII.

### Depreciation

#### A.

#### Depreciation Expense Net of Contribution in Aid of Construction ("CIAC") Amortization

Applicant proposed a depreciation expense, net of CIAC amortization, of \$161,788. The Consumer Advocate proposed an amount equal to \$58,396, which reduced Applicant's proposed amount by the amount that the Consumer Advocate believed was attributed to excess capacity in Applicant's plant. After further discussions, the Parties stated that they "resolved the excess capacity issue"<sup>22</sup> and agreed to Applicant's proposed amount of \$161,788. We find the amount of depreciation expense, net of CIAC amortization, to be reasonable.

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<sup>22</sup>See, Stipulation at 19 and 22.

B.

Net Depreciation of AFUDC and  
General and Administrative Expenses

In its application, Applicant proposed an amount of \$10,862 for net depreciation of allowance for funds used during construction ("AFUDC") and general and administrative expenses. However, in its Direct Testimonies, the Consumer Advocate countered that Applicant should not include any amounts for the depreciation of AFUDC and general and administrative expenses. In their settlement negotiations, Applicant agreed to remove its entire proposed \$10,862 amount from this expense item. We find the exclusion of such amount from the Test Year expenses to be reasonable.

VIII.

Other Items

A.

Taxes Other Than Income Tax

The Parties agreed to the methodology and tax rates to be used to calculate the revenue taxes included in taxes other than income. However, the Parties proposed amounts differed due to the differing revenue requirement recommendations set forth by each party. After the Parties agreed upon a revenue requirement, they determined that the taxes other than income for the Test Year under

approved rates should equal \$55,823.<sup>23</sup> We find the amount of \$55,823 under approved rates to be appropriate.

B.

Income Taxes

Applicant proposed an amount for income taxes of \$112,778, which was later increased by Applicant to \$121,885. The Consumer Advocate, in its Direct Testimonies, proposed that Applicant should not be allowed to recover any income tax expense in the instant proceeding. The Consumer Advocate asserted that Applicant's net operating loss carry forward amounts should be used as an offset to Applicant's taxable income because the commission's prior decisions against the use of net operating losses as an offset against tax liabilities for ratemaking purposes was distinguishable in this instance. After acknowledging that litigating the different positions on the matter may cost more than the amount at issue, the Parties ultimately agreed to settle for one-half of Applicant's income tax amount as the Test Year income tax expense. As a result, the parties determined that the income tax expense for the Test Year should be \$37,470. We accept the agreed upon income tax expense amount and find it to be reasonable.

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<sup>23</sup>Taxes other than income tax are comprised of two taxes: the Public Service Company Tax, which rate is 5.885 per cent; and the commission's fee, which rate is 0.50 per cent. The Parties stipulated to a taxes other than income taxes Test Year amount of \$32,821 at present rates and \$55,823 at proposed rates.

IX.

Rate Base

The Parties stipulated to a Test Year average rate base of \$1,585,294. In doing so, the Parties negotiated each of the following items:

A.

Net Plant

1. Plant in Service

Applicant proposed an amount of \$5,745,582 for its plant in service. In its Direct Testimonies, the Consumer Advocate proposed a plant in service amount of \$2,069,934, adding to Applicant's proposed amount to allow for the capitalization of the backflow preventer expense (\$4,235), but reducing the overall plant in service amount by 64 per cent, since the Consumer Advocate contended that 64 per cent of Applicant's plant capacity was excess capacity that should not be included in the Test Year rate base.

During settlement discussions, Applicant accepted the additional amount for the backflow preventer to be included in the plant in service and presented the Consumer Advocate with additional information and analyses to demonstrate the portions of Applicant's plant that are used and useful and should be included in Applicant's Test Year rate base.

Applicant acknowledges that excess capacity exists in the pump station and the force main plant accounts. However, since the plant items were acquired with CIAC funds, which reduces the plant in service figure, Applicant asserts that no adjustment is required to remove the costs of the excess capacity currently reflected in

the pump station and force main plant account balances because there is no rate base impact in the Test Year. In addition, Applicant asserts that certain portions of the plant are not related to its sewage treatment capacity, would not represent a different amount regardless of the size of the plant, and should be excluded from any excess capacity related adjustment.<sup>24</sup>

Next, Applicant states that the capacity of the lagoon, when measured on the amount of sewage flow for the anticipated customer level over the next 10 years, does not reflect any excess capacity.

Applicant asserts that the two lagoons are only a portion of the total lagoon system that was planned in 1982 for the full build-out of the sewage treatment plant. Finally, Applicant contends that only a portion of the force main or pump station (within the pumps and equipment account) should be considered to be excess capacity based on Applicant's current operations and flow requirements. Accordingly, Applicant contends that only \$37,812 of the rate base amount should be considered excess capacity to be excluded from Applicant's rate base in this proceeding. After conducting its own review, and in light of the additional information presented by Applicant, the Consumer Advocate agreed with Applicant's position as presented in the settlement negotiations. As a result, the Parties agreed to a plant in service amount of \$5,749,817. We find the agreed upon plant in service amount is reasonable.

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<sup>24</sup>These items include, for example, an access road, a computer, a Ford Ranger, and a chlorine alarm system.

2. Accumulated Depreciation

The Parties also stipulated to utilizing an accumulated depreciation amount of \$3,524,515 consistent with their stipulated agreement as to Applicant's plant in service. We agree that this amount is also reasonable.

B.

CIAC and Accumulated Amortization of CIAC

Applicant proposed an amount of \$1,620,658 for CIAC and an amount of \$946,056 for the accumulated amortization of CIAC. In its Direct Testimonies, the Consumer Advocate proposed a CIAC amount of \$583,437 and an accumulated amortization of CIAC amount of \$340,580, based on its position at that time that Applicant's plant had excess capacity. As a result of the Parties' stipulation regarding the excess capacity issue and the Consumer Advocate's change of position on the matter, the Consumer Advocate agreed to Applicant's \$1,620,658 CIAC amount and \$946,056 of accumulated amortization of CIAC. We find the amounts for CIAC and the accumulated amortization of CIAC to be reasonable for the Test Year.

C.

Working Capital

In the application, Applicant proposed an amount of \$55,193 for working capital using a factor of one-eighth, which was later reduced by Applicant to \$35,323 using a factor of one-twelfth. The Consumer Advocate proposed a working capital

amount of \$33,193, using a factor of one-twelfth. As a result of the settlement reached on the differences in the Test Year operating expenses, the Parties agreed to a stipulated working capital amount of \$34,594. We find this amount to be reasonable.

D.

AFUDC and General and Administrative Capitalized

Applicant proposed an amount of \$111,635 for its AFUDC and general and administrative capitalized amounts. The Consumer Advocate proposed that no amounts should be allowed for these items, adopting a position consistent with its treatment of net depreciation of AFUDC and general and administrative expenses. Applicant agreed to remove its entire proposed \$111,635 from this rate base item. We agree that no amount should be allowed for AFUDC and general and administrative capitalized accounts in this instance.

X.

Rate of Return

The Parties stipulate to an overall rate of return of 10 per cent for the Test Year. The Parties also agree that this shall not set a precedent against Applicant and/or the Consumer Advocate seeking a different return on its rate base in any future regulatory proceedings. The commission notes that the stipulated rate is consistent with the rate approved by the

commission in previous water and wastewater utility cases.<sup>25</sup>  
We find the rate of return agreed to by the Parties is reasonable.

XI.

Stipulated Rate Design

Once the stipulated revenue requirement of \$874,297 was determined, the Parties worked to settle on a rate design to achieve the designated revenue requirement. Applicant agreed to remove revenues from the stand-by charge and billing services and also agreed to establish the equivalent unit base factor for residential customers at 1,582 square feet, which was based on dwelling size instead of lot acreage, as recommended by the Consumer Advocate. Accordingly, the Parties determined that the monthly rate per hotel room for hotels, per unit for condominiums, and per equivalent unit for commercial properties<sup>26</sup> and homeowners'

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<sup>25</sup>See, e.g., In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Decision and Order No. 16372, filed on June 9, 1998, in Docket No. 96-0366; In re Princeville Util. Co., Inc., Decision and Order No. 16053, filed on November 4, 1997, in Docket No. 95-0172; In re Waikoloa Sanitary Sewer Co., Inc., dba West Hawaii Sewer Co., Decision and Order No. 19223, filed on February 27, 2002, in Docket No. 00-0440.

<sup>26</sup>In its Direct Testimonies, the Consumer Advocate states that the present equivalent units for commercial customers should be used for this proceeding. See, supra footnote 8 for a description of the equivalent units. In the Stipulation, the Parties agreed to work together to develop a procedure to allow for the reasonable determination of these equivalent units at Applicant's next rate case. Applicant agreed to develop and submit a proposal to the Consumer Advocate for measuring the use of Applicant's utility system by its commercial customers within 60 days from the issuance of this decision and order.

associations<sup>27</sup> is \$45.78, as set forth in Exhibit C to the Stipulation.

The stipulated rate design results in an increase in the base rate for the hotels, condominiums, and commercial customers of 66.5 per cent. Additionally, the stipulated rate design results in an increase in the base rate for homeowners' associations of 95.3 per cent. The Consumer Advocate does not recommend that the new rates be phased in over a period of time, in hopes of avoiding any "rate shock" experienced by customers as a result of the negotiated increase in revenue requirements for the Test Year.

We find the stipulated rate design to be reasonable.

## XII.

### Tariff Changes

The Parties agree to certain revisions to Applicant's tariff rules, involving non-rate matters. Specifically, the Consumer Advocate proposes the following revisions, of which Applicant concurs:

1. Add a definition for the term "notice of discontinuance."<sup>28</sup>

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<sup>27</sup>As stated above, Applicant agreed to utilize the equivalent unit base factor for residential customers at 1,582 square feet, which was based on dwelling size instead of lot acreage, as recommended by the Consumer Advocate.

<sup>28</sup>The Consumer Advocate recommended this addition in Section IX, CA-T-4 at 21. Applicant agreed generally to the addition of the definition in its response to CA-IR-23b.

2. Insert the following language in Rule 2.2:<sup>29</sup>

(e) improvements required for compliance with applicable county, state, federal and agency environmental and other laws and regulations.

3. Amend the simple interest rate used for Consumer deposits under Rule 4.3 from six per cent to 2 per cent.<sup>30</sup>

4. Delete the last sentence of Rule 6.1 and in its place, add the following verbiage:<sup>31</sup>

If any bill is not paid within the due date of thirty (30) days after deposit in the United States mail or presentation to the Consumer, the Company may disconnect service after the Company has given the Consumer written notice that the Consumer has five (5) business days within which to settle the Consumer's account or have service disconnected, and the Consumer fails to pay within such five (5) business day deadline.

5. Insert the following verbiage to Rule 6:<sup>32</sup>

Any dispute regarding the charges appearing on the bill must be received by the Company in writing no later than fifteen (15) days following the Company's deposit of the bill in the United States mail or presentation to the Consumer. The Company shall furnish a written response within fifteen (15) days of its

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<sup>29</sup>The Consumer Advocate recommended this amendment in Section IX, CA-T-4 at 21. Applicant agreed to the amendment in its response to CA-IR-23c.

<sup>30</sup>The Consumer Advocate recommended this amendment in Section IX, CA-T-4 at 22. The amendment is identical to the language proposed by Applicant in its response to CA-IR-23d.

<sup>31</sup>The last sentence of Rule 6.1 reads "If any bill is not paid within thirty (30) days after deposit in the United States mail or presentation to the Consumer, the sewer service shall be subject to discontinuance without further notice." This amendment was proposed by the Consumer Advocate in Section IX, CA-T-4 at 22. Applicant agreed to this change in its response to CA-IR-23e.

<sup>32</sup>The Consumer Advocate recommended this amendment in Section IX, CA-T-4 at 22. Applicant proposed identical language in its response to CA-IR-23f.

receipt of the written dispute. The Consumer may pay the disputed bill under protest within the time required by this rule to avoid discontinuation of service, in which event the dispute may be submitted to the PUC for final determination.

6. Add the following new subsection to Rule 7.2:<sup>33</sup>

(e) Any other substance, of whatever nature or form, disposal of which is prohibited by applicable federal, state, county or agency environmental or other law, rule or regulation.

7. Insert the following language to Rule 8.2:<sup>34</sup>

Except in the case of emergency repairs, the Company shall use best efforts to give the Consumer at least 24 hours notice before shutting off service.

8. Include the following in Rule 9:<sup>35</sup>

Each Consumer about to permanently vacate any premises supplied with sewer service by the Company shall give at least two days' notice of his intention to vacate prior thereto, specifying the date service is desired to be discontinued; otherwise the Consumer shall be held responsible for all sewer service furnished to such premises until the Company has received such notice of discontinuance. Before any buildings are demolished, the Consumer is responsible for notifying the Company so the service connection can be closed. See definition of the term "notice of discontinuance" in Rule 1.

If the Consumer fails to comply with any of these Rules and Regulations, or tampers with the service facilities of the Company, the

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<sup>33</sup>The Consumer Advocate recommended this amendment in Section IX, CA-T-4 at 22. Applicant proposed identical language in its response to CA-IR-23g.

<sup>34</sup>The Consumer Advocate recommended this amendment in Section IX, CA-T-4 at 23. Applicant agreed to this amendment in its response to CA-IR-23h.

<sup>35</sup>The Consumer Advocate recommended this amendment in Section IX, CA-T-4 at 23. Applicant agreed to this amendment in its response to CA-IR-23i and -23j.

Company will have the right to discontinue the service.

The Company may refuse to grant service or may discontinue existing sewer service to any premises to protect itself against fraud, abuse, or disposal of unacceptable wastes.

The Company may refuse to furnish service, and may discontinue the sewer service to any premises, where the demands of the Consumer will result in inadequate service to others.

Unless otherwise stated, or unless termination without notice is necessary to protect against a condition determined by the Company to be hazardous or to prevent an abuse of service that adversely affects the Company sewer system or its service to other customers, a customer shall be given at least five (5) days written notice prior to termination of service, and the customer's service shall not be discontinued on the day preceding or days on which the Company's business office is closed.

9. Add the following section labeled "Severability" to the Rules:<sup>36</sup>

If any rule, section, sentence, clause, or phrase of these Rules and Regulations or its application to any person or circumstance or property is held to be unconstitutional or invalid, the remaining portions of these Rules and Regulations or the application of these Rules and Regulations to other persons or circumstances or property shall not be affected. The Company hereby declares that it would have adopted these Rules and Regulations, and each and every rule, section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more other rules, sections, sentences, clauses, or phrases be declared unconstitutional or invalid.

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<sup>36</sup>The Consumer Advocate recommended this addition in Section IX, CA-T-4 at 24. Applicant agreed to this addition in its response to CA-IR-23k.

10. Include a section for system extensions.<sup>37</sup>
11. Include a section for the sewer rate schedules.<sup>38</sup>
12. Include a map of the service territory.<sup>39</sup>

### XIII.

#### Ultimate Findings and Conclusions

Upon careful review, we find that the Parties' Stipulation is just and reasonable. Accordingly, we will approve the Parties' Stipulation.

However, because the Parties' Stipulation and other agreements result from arms-length negotiations, involving compromises from both Parties our approval of the Stipulation, or of the methodologies used by the Parties may not be cited as precedent in any future proceeding.

The commission finds and concludes:

1. The operating revenues and operating expenses of the 2003 Test Year, as set forth in Exhibit A, are reasonable.
2. The use of an average Test Year rate base is reasonable.

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<sup>37</sup>The Consumer Advocate recommended this addition in Section IX, CA-T-4 at 24. Applicant agreed to this addition in its response to CA-IR-231. Applicant advises that it will work with the Consumer Advocate to create language acceptable to both Parties.

<sup>38</sup>The Consumer Advocate recommended this addition in Section IX, CA-T-4 at 24. Applicant agreed to this addition in its response to CA-IR-23m.

<sup>39</sup>The Consumer Advocate recommended this addition in Section IX, CA-T-4 at 24. Applicant agreed to this addition in its response to CA-IR-23n.

3. The Test Year average depreciated rate base under the approved rates is \$1,585,294.

4. The stipulated rate of return for the Test Year is 10 per cent, which is fair and reasonable.

5. Applicant is entitled to total operating revenues of \$874,297.

6. Applicant's rate restructuring and tariff revisions are reasonable.

7. The commission's issuance of the instant final decision and order renders moot the issuance of an interim decision and order.

#### XIV.

##### THE COMMISSION ORDERS:

1. Applicant's request to change its wastewater rates is approved, consistent with the terms of this decision and order.

2. Based on the total revenue requirement of \$874,297, Applicant's restructured rates will produce a rate of return of 10 per cent, on the average depreciated rate base for the 2003 Test Year, as shown on Exhibit A attached hereto.

3. The effective date of Applicant's tariff changes and restructured rates is September 12, 2003.

4. Applicant shall file with the commission revised tariff sheets and rate schedules, except its Rules and Regulations, which filing will be directed below, that appropriately reflect the tariff changes and restructured rates approved by this decision and order. Applicant's revised tariff sheets and rate schedules shall

be filed with the commission and served on the Consumer Advocate by September 9, 2003, for the commission's review and approval.

5. Applicant shall work with the Consumer Advocate to develop the "notice of discontinuance" definition and the section describing system extensions (referred to in section XII 1 and 10, respectively, in this decision and order) recommended by the Consumer Advocate and agreed to by the Applicant. Applicant shall file with the commission its revised Rules and Regulations that appropriately reflect the required changes and additions set forth in section XII of this decision and order. Applicant's revised Rules and Regulations shall be filed with the commission and served on the Consumer Advocate by September 30, 2003.

6. Applicant shall maintain a record of all emergency repair expenses and extraordinary repair and maintenance expenses in excess of \$10,000 for review in Applicant's next rate case. At a minimum, Applicant shall maintain records of such amounts that include: (a) support for the expenditures (including invoices and a description of the nature of the work performed); (b) a statement explaining why each particular expense was or should not be capitalized; and (c) a statement explaining why each particular expenditure is not to be considered an ordinary repair and maintenance expense item that is expected to occur periodically, or in the alternative, a statement providing an estimated recurrence time for that particular expenditure item.

7. The issuance of the instant decision and order renders moot the issuance of an interim decision and order.

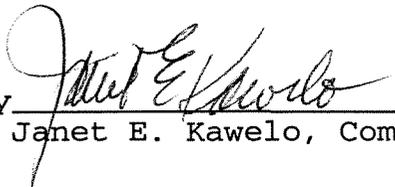
8. The Parties' waiver of the evidentiary hearing is approved.

DONE at Honolulu, Hawaii this 29th day of August, 2003.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Catherine P. Awakuni  
Commission Counsel

02-0392.eh

**MAUNA LANI STP, INC.**  
**Revenue Requirements**  
**Test Year Ending December 31, 2003**

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Approved Rates</u>
<b>REVENUES</b>			
Customer Charges	514,039	358,068	872,107
Effluent Sales	-	2,190	2,190
Total Operating Revenues	<u>514,039</u>	<u>360,258</u>	<u>874,297</u>
<b>OPERATING EXPENSES</b>			
Salaries & Wages	84,490		84,490
Employee Benefits	29,285		29,285
Electricity Charges	47,953		47,953
Water Utility Charges	16,074		16,074
Repair & Maintenance -- General	6,864		6,864
Repair & Maintenance -- Machinery & Equip	10,720		10,720
Repair & Maintenance -- Resort Maintenance	34,490		34,490
Repair & Maintenance -- Chemicals	16,942		16,942
Repair & Maintenance -- Other	7,095		7,095
Amortization of Emergency Repair	8,406		8,406
Amortization of Extraordinary R&M	2,556		2,556
Travel, Auto and Per Diem	2,341		2,341
Telephone	1,991		1,991
General Insurance	8,801		8,801
Allocated Charges -- Mauna Lani Resorts	137,121		137,121
Rate Case Amortization	30,800		30,800
Uncollectible Expense	-		-
All Other Operating Expenses	14,700		14,700
TOTAL OPERATING EXPENSE	<u>460,629</u>	<u>-</u>	<u>460,629</u>
Depreciation -- Net of CIAC Amortization	161,788	-	161,788
Net Depreciation on AFUDC and G&A Cap.	-	-	-
Taxes -- Other Than Income	32,821	23,002	55,823
OPERATING INCOME BEFORE INCOME TAX	<u>(141,199)</u>	<u>337,256</u>	<u>196,057</u>
INCOME TAXES	37,470	-	37,470
NET OPERATING INCOME	<u>(178,669)</u>	<u>337,256</u>	<u>158,587</u>
AVERAGE RATE BASE	1,585,294		1,585,294
RETURN ON RATE BASE	<u>-11.27%</u>		<u>10.00%</u>

**MAUNA LANI STP, INC.**  
**Average Rate Base**  
**Test Year Ending December 31, 2003**

	<u>Average</u>
Plant In Service	5,749,817
Accumulated Depreciation	<u>3,524,515</u>
Net Plant In Service	2,225,302
Deduct:	
Unamortized CIAC	1,620,658
Add:	
Accumulated Amortization of CIAC	946,056
AFUDC and G&A Capitalization	<u>-</u>
Depreciated Rate Base before Working Cash	1,550,700
Working Cash	<u>34,594</u>
Total Average Rate Base	<u><u>1,585,294</u></u>

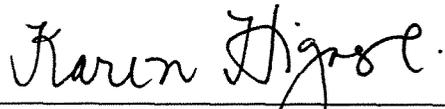
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20405 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
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Karen Higashi

DATED: August 29, 2003