

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

) DOCKET NO. 03-0246

KEALIA WATER COMPANY HOLDINGS LLC)

For a Certificate of Public Convenience and)
Necessity to Provide Water Services on the)
Island of Kauai, District of Kealia, and for)
Approval of Rules Regulations and Rates)

STIPULATED PREHEARING ORDER NO. 21217

J. DOUGLAS ING
PAMELA J. LARSON
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813
Telephone: (808) 544-8300
Facsimile: (808) 544-8399

Attorneys for APPLICANT

CRAIG I. NAKANISHI, ESQ.
Rush Moore Craven
Sutton Morry & Beh
737 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Telephone: (808) 521-0400
Facsimile: (808) 521-0597

JON S. ITOMURA, ESQ.
335 Merchant St.
Room 326
Honolulu, HI 96813
Telephone: (808) 586-2800
Facsimile: (808) 586-2780

Attorney for INTERVENOR KEALIA
PLANTATION COMPANY, LLC

Attorney for the
DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

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

2004 AUG -9 A 9:21

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
) DOCKET NO. 03-0246
)
KEALIA WATER COMPANY HOLDINGS LLC)
)
For a Certificate of Public Convenience and)
Necessity to Provide Water Services on the)
Island of Kauai, District of Kealia, and for)
Approval of Rules Regulations and Rates)
_____)

STIPULATED PREHEARING ORDER NO. 21217

EXHIBIT "A"

and

CERTIFICATE OF SERVICE

Filed August 5, 2004
At 8 o'clock A.m.
Karen Higashi
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	DOCKET NO. 03-0246
KEALIA WATER COMPANY HOLDINGS LLC)	
For a Certificate of Public Convenience and)	
Necessity to Provide Water Services on the)	
Island of Kauai, District of Kealia, and for)	
Approval of Rules Regulations and Rates)	
_____)	

STIPULATED PREHEARING ORDER

KEALIA WATER COMPANY HOLDINGS LLC ("Applicant" or "KWC"), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate") and Intervenor KEALIA WATER PLANTATION COMPANY, LLC ("Intervenor" or "KPC") thereby stipulate to the following provisions of this Stipulated Prehearing Order as mutually acceptable to each.

I.

STATEMENT OF THE ISSUES

The issues in this case are:

1. Is Applicant fit, willing and able properly to perform the service proposed and to conform to the terms, conditions, and rules adopted by the Commission?
2. Is the proposed service required by the present or future public convenience and necessity?

3. Are KWC's proposed rates reasonable?
 - a. Are the proposed tariffs, rates, rules and charges just and reasonable?
 - b. Are the revenue forecasts for the test year ending July 31, 2004 ("Test Year") 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?

II.

SCHEDULE OF PROCEEDINGS

The parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached hereto as Exhibit "A." Notwithstanding the above, the parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time. However, the intent of the parties in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources. Therefore, any changes to the schedule should be proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

III.

REQUESTS FOR INFORMATION

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Prehearing Order. If a party is

unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information. If the parties are unable to agree, the party from whom the information is sought may seek approval from the Commission and make a showing of good cause for the late filing. It is then within the Commission's discretion to allow additional time to respond to the information requests.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g. documents over 100 pages), the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette, the party responding to the information request may make the diskette available to the other party and the Commission. A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part VI, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request specific cites to such data and an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the

response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to a protective order.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

IV.

WITNESSES

Written testimonies, exhibits, and work papers shall be submitted for all witnesses pursuant to the Schedule of Proceeding. All written testimonies and exhibits shall be sponsored by witnesses who shall be made available for cross-examination at the hearing. Witnesses should have the work papers used in preparing the evidence they sponsor available at the hearing. Witnesses will not be permitted to read pre-filed testimony at the hearings. Witnesses who will present both oral direct and rebuttal testimonies must present said testimonies at the same time.

In the oral presentation of the testimony, each witness may give a brief summary of the pre-filed written testimony and exhibits and may summarize the issues raised by

such testimony. Each witness shall be subject to cross-examination for both the written direct and rebuttal testimony and exhibits.

The parties in this case should cooperate to accommodate the schedules of any mainland witnesses and should inform the Commission in advance of any scheduling difficulties of mainland witnesses. If any party has any objection to scheduling a witness in advance of other witnesses, the party should make a timely objection to the Commission.

V.

FORM OF PREPARED TESTIMONY

All prepared testimony, including text and exhibits, shall be prepared in written form on 8-1/2" x 11" paper with line numbers, and shall be served on the dates designated in the Schedule of Proceedings.

Each party shall be permitted to follow its own numbering system for written testimony and exhibits, provided that the numbering system utilized is consistent and is clearly understandable. Each document of more than one page shall be consecutively numbered. Each party shall prepare a list of its exhibits by exhibit numbers and titles.

The parties shall be permitted to present facts occurring after the designated dates appearing in the Schedule of Proceeding by a revision to exhibits. Revisions shall bear appropriate revision dates. However, revisions or additions that do more than correct typographical errors, update facts, or give numerical comparisons of the positions taken by the parties, shall not be submitted except with the approval of the Commission.

Generally, exhibits should include appropriate footnotes or narratives in the exhibits or the related testimony setting forth the sources of the information used and explaining the methods employed in making statistical compilations or estimates.

VI.

MATTERS OF PUBLIC RECORD

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that KWC has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, specific citation, and the identified document is available for inspection by the Commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

Division of Consumer Advocacy 3 copies
335 Merchant Street
Room 326
Honolulu, HI 96813
E-Mail: cheryl.s.kikuta@dcca.hawaii.gov
Facsimile Number: 586-2780

J. Douglas Ing. Esq. 2 copies
Pamela J. Larson, Esq..
Watanabe Ing Kawashima & Komeiji LLP
999 Bishop Street
First Hawaiian Center, 23rd Floor
Honolulu, HI 96813
E-Mail: douging@wik.com
plarson@wik.com
Facsimile Number: 544-8399

Craig I. Nakanishi, Esq. 2 copies
Rush Moore Craven Sutton Morry & Beh
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2400
Honolulu, HI 96813
E-Mail: cnakanishi@rmhawaii.com
Facsimile Number: (808) 521-0597

All pleadings, briefs and other documents required to be filed with the Commission shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

VIII.

ORDER OF EXAMINATION

Pursuant to Chapter 61, subchapter 3, section 6-61-31, of the Commission's Rules of Practice and Procedure, KWC's witnesses shall open with its direct case. The Consumer Advocate's direct case shall be presented after KWC's direct case, followed by Intervenor's direct case, KWC shall close with its rebuttal case.

Examination of any witness shall be limited to one attorney for a party. The parties shall avoid duplicative or repetitious cross-examination. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Re-cross-examination shall be limited to the extent of material covered in redirect examination unless otherwise permitted by the Commission.

IX.

COMMUNICATIONS

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning *ex parte* communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel through their own counsel or designated official only as to matters of process and procedure.

Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party as provided in Article VII above.

All motions, supporting memoranda, briefs, and the like shall also be served on opposing counsel.

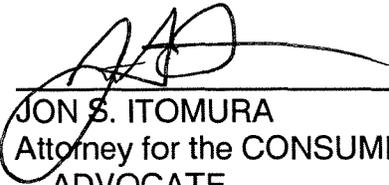
X.

GENERAL

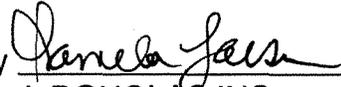
These procedures are consistent with the orderly conduct of this docket.

Pursuant to Chapter 61, subchapter 3, section 6-61-37 of the Commission's Rules of Practice and Procedure, the Prehearing Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearings to prevent manifest injustice.

Dated: Honolulu, Hawaii, JUL 22 2004, 2004.

By 

JON S. ITOMURA
Attorney for the CONSUMER
ADVOCATE

By 

J. DOUGLAS ING
PAMELA J. LARSON
Attorneys for Applicant

By 

CRAIG I. NAKANISHI
Attorney for Intervenor

APPROVED AND SO ORDERED this 5th day of August, 2004.

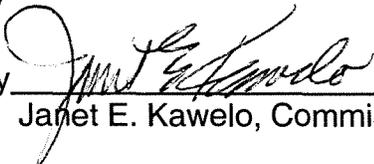
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 

Carlito P. Caliboso, Chairman

By 

Wayne H. Kimura, Commissioner

By 

Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:



Ji Sook Kim
Commission Counsel

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
KEALIA WATER COMPANY HOLDINGS LLC
Docket No. 03-0246

	DATE	PROCEDURAL STEPS
1	Friday, August 29, 2003	Application Filed at Commission
2	Friday, December 26, 2003	Consumer Advocate Submission of IRs to KWC
3	Wednesday, August 4, 2004	KWC Testimony and Response to Consumer Advocate IRs
4	(4 weeks later) Friday, September 3, 2004	Consumer Advocate and Intervenor Submission of IRS to KWC on the Application, Exhibits, Workpapers, Testimony and Responses to Information requests
5	(3 weeks later) Thursday, September 23, 2004	KWC Response to Consumer Advocate and Intervenor IRs
6	(3 weeks later) Thursday, October 14, 2004	Consumer Advocate and Intervenor Submission of Supplemental Information Requests
7	(2 weeks later) Thursday, October 28, 2004	KWC response to Consumer Advocate and Intervenor Supplemental Information Requests
8	(6 weeks later) Friday, December 10, 2004	Consumer Advocate and Intervenor Direct Testimony and Exhibits
9	(4 weeks later) Thursday, January 6, 2005	KWC Submission of IRs to Consumer Advocate and Intervenor
10	(3 weeks later) Thursday, January 27, 2005	Consumer Advocate and Intervenor Response to KWC IRs
11	(2 weeks later) Thursday, February 10, 2005	KWC Rebuttal Testimony
12	(2 weeks later) Thursday, February 24, 2005	Consumer Advocate and Intervenor Rebuttal Information Requests to KWC
13	(2 weeks later) Thursday, March 10, 2005	KWC Response to Consumer Advocate and Intervenor Rebuttal Information Requests
14	Wednesday, March 16, 2005	Settlement Proposal (KWC to Consumer Advocate and Intervenor)
15	Monday, March 28, 2005	Settlement Discussions
16	Monday, April 11, 2005	Settlement Letter/Agreement (if any) to Commission
17	To be set by Commission (if necessary)	Evidentiary Hearing (if no settlement)

	DATE	PROCEDURAL STEPS
18	3 weeks after transcript completed and filed with the Commission	Simultaneous Post-Hearing Briefs from KWC/Consumer Advocate/Intervenor
19	3 weeks after Post-Hearing Brief filed	Simultaneous Post-Hearing Reply Briefs from KWC/Consumer Advocate/Intervenor in response to Post-Hearing Briefs.
20		Decision and Order

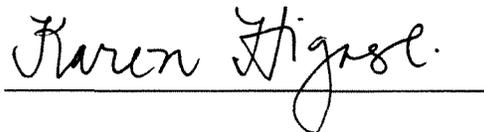
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated Prehearing Order No. 21217 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

Division of Consumer Advocacy
335 Merchant Street
Room 326
Honolulu, HI 96813

J. Douglas Ing. Esq.
Pamela J. Larson, Esq..
Watanabe Ing Kawashima & Komeiji LLP
999 Bishop Street
First Hawaiian Center, 23rd Floor
Honolulu, HI 96813

Craig I. Nakanishi, Esq.
Rush Moore Craven Sutton Morry & Beh
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2400
Honolulu, HI 96813



DATED: AUG 05 2004

339936