

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
NORTH SHORE WASTEWATER)
TREATMENT, L.L.C.)
)
For a Certificate of Public Convenience and)
Necessity Pursuant to Section 269-7.5, HRS,)
to Provide Sewerage Treatment Service for)
the Turtle Bay Resort at Kahuku, Oahu)
_____)

Docket No. 04-0298

STIPULATED PROCEDURAL ORDER NO. 21475

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COMMERCE AND CONSUMER AFFAIRS

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

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In the Matter of the Application of)
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NORTH SHORE WASTEWATER)
TREATMENT, L.L.C.) Docket No. 04-0298
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_____)

STIPULATED PROCEDURAL ORDER NO. 21475

EXHIBIT "A"

and

CERTIFICATE OF SERVICE

Filed Nov. 24, 2004

At 1 o'clock P.m.

Bonita K. Kave

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	
NORTH SHORE WASTEWATER)	
TREATMENT, L.L.C.)	Docket No. 03-0383
)	
For a Certificate of Public Convenience and)	
Necessity Pursuant to Section 269-7.5, HRS,)	
to Provide Sewerage Treatment Service for)	
the Turtle Bay Resort at Kahuku, Oahu)	
_____)	

STIPULATED PROCEDURAL ORDER

NORTH SHORE WASTEWATER TREATMENT, L.L.C., (“Applicant” or “NSWT”) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the “Consumer Advocate”) hereby stipulate to the following provisions of this Stipulated Procedural Order as mutually acceptable to each.

I.

STATEMENT OF THE ISSUES

The issues in this case are:

1. Whether Applicant is fit, willing and able to properly perform the proposed service and to conform to the provisions of Chapter 269, Hawaii Revised Statutes, and the requirements, rules and regulations of the Commission?
2. Whether Applicant’s proposed service is or will be required by the present or future public convenience and necessity.
3. Whether Applicant’s proposed rules and regulations governing service and the proposed initial rates and charges are just and reasonable?

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 Procedural 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 the submission of the requested information. If the parties are unable to agree, the responding party may seek approval from the Commission for an extension of time to provide the requested information and make a showing of good cause. It is then within the Commission's discretion to allow the 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 50 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 or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium 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 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 the public 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

To the extent that a hearing will be necessary in this proceeding, witnesses submitting pre-filed written testimony and exhibits 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 prefiled written testimony at the

hearings. Witnesses who will present both oral testimonies on direct and for rebuttal must present said testimonies at the same time.

In the oral presentation of the testimony, each witness may give a brief summary of the testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for both direct and rebuttal testimony and exhibits.

The parties in this case should cooperate to accommodate the schedules of any mainland or neighbor island witnesses and should inform the Commission in advance of any scheduling difficulties of such 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, if any, 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 make revisions to exhibits after the designated dates appearing in the Schedule of Proceedings. 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.

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 Applicant has filed with the Commission, 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, 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.

VII.

COPIES OF FILINGS AND INFORMATION REQUESTS

1. Filings, Information Requests, and Responses:

Public Utilities Commission 465 South King Street First Floor Honolulu, HI 96813	Original plus 8 copies
Division of Consumer Advocacy 335 Merchant Street Room 326 Honolulu, HI 96813 E-Mail: cheryl.s.kikuta@dcca.hi.gov Facsimile Number: 586-2780	3 copies

Alan M. Oshima, Esq.
Michael H. Lau, Esq.
Kent D. Morihara, Esq.
Oshima Chun Fong & Chung LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813
E-Mail: amo@ocfc.com
mhl@ocfc.com
kdm@ocfc.com
Facsimile Number: 531-8466

3 copies

2. All pleadings, 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. In addition, any filings made with the Commission should also include an electronic version of the filing that is submitted via diskette or e-mail to the Commission in a standard electronic format that is readily acceptable by the Commission.

3. Copies of all filings, information requests, and information request responses should be sent to the other parties by hand delivery or via U.S. mail. In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties on the day of the filing via diskette or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in Word format or in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into such format(s). Also, existing documents produced in response to requests need not be converted to Word as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or via facsimile as provided in Parts VII.1 and VII.2 above.

VIII.

ORDER OF EXAMINATION

To the extent a hearing is required in this proceeding, pursuant to Chapter 61, subchapter 3, section 6-61-31, of the Commission's Rules of Practice and Procedure, Applicant's witnesses shall open with its direct case. The Consumer Advocate's direct case shall be presented after Applicant's direct case. Applicant shall close with its rebuttal case except for witnesses presenting both direct and rebuttal testimony as provided in Section IV above.

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

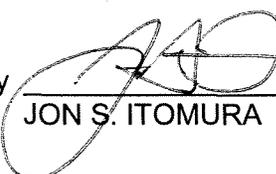
These procedures are consistent with the orderly conduct of this docket.

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

Dated: Honolulu, Hawaii, November 17, 2004.

By  _____
ALAN M. OSHIMA
MICHAEL H. LAU

Attorneys for Applicant
NORTH SHORE WASTEWATER
TREATMENT, L.L.C.

By  _____
JON S. ITOMURA

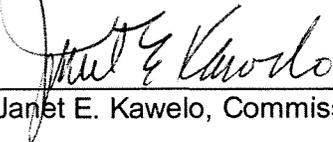
Attorney for DIVISION OF CONSUMER
ADVOCACY, DEPARTMENT OF
COMMERCE AND CONSUMER
AFFAIRS

APPROVED AND SO ORDERED this 24th day of November, 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:



Michael Azama
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated Procedural Order No. 21475 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
335 Merchant Street
Room 326
Honolulu, HI 96813

ALAN M. OSHIMA, ESQ.
MICHAEL H. LAU, ESQ.
Oshima Chun Fong & Chung LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, Hawaii 96813

HY ADELMAN
North Shore Wastewater Treatment, L.L.C.
57-091 Kamehameha Hwy.
Kahuku, Hawaii 96731

DATED: November 24, 2004


for Karen Higashi

EXHIBIT "A"

STIPULATED REGULATORY SCHEDULE

Docket No. 04-0298

	DATE	DURATION (business days)	PROCEDURAL STEPS
1.	Tuesday, October 5, 2004	---	Application Filed at PUC
2.	Friday, December 17, 2004	---	Consumer Advocate's Submission of Information Requests (IRs)
3.	Friday, January 14, 2005	18	Applicant's Responses to Consumer Advocate's Submission(s) of IRs
4.	Friday, February 4, 2005	14	Consumer Advocate's Submission of Supplemental Information Requests (SIRs)
5.	Friday, February 18, 2005	10	Applicant's Responses to Consumer Advocate's Submission of SIRs
6.	Friday, March 4, 2005	10	Consumer Advocate's Statement of Position (SOP)
7.	Friday, March 11, 2005	7	Applicant's Submission of IRs, if necessary*
8.	Friday, March 18, 2005	7	Consumer Advocate's Responses to Applicant's Submission of IRs
9.	Monday, March 28, 2005	10	Applicant's Reply SOP*
10.			Decision and Order

* If the Consumer Advocate objects to approval of the Application, or requests that approval be subject to conditions.

If there are substantial disagreements following the filing of SOPs, and the parties cannot resolve the differences by stipulation, and the parties do not waive the right to a hearing, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If Applicants determine that IRs to the Consumer Advocate are unnecessary, and/or a Reply SOP is not necessary by Applicant, Applicant and the Consumer Advocate will notify the Commission that the proceeding is ready for decision-making.