

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
WAIKOLOA WATER COMPANY, INC., dba)
WEST HAWAII WATER COMPANY)
)
For Approval of Rates Increases)
and Revised Rate Schedules.)
_____)

DOCKET NO. 04-0373

ORDER NO. 21675

RECEIVED
2005 MAR -9 A 8:01
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed March 7, 2005
At 10 o'clock A .M.

Karen Higashi.
Chief Clerk of the Commission

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

As such, the Parties, as part of their proposed procedural schedule, do not anticipate the filing of pre-filed testimonies by the Consumer Advocate (direct testimony) or WHWC (rebuttal testimony). Instead, following the completion of discovery, the Parties propose to file their respective position statements.¹

A.

Section I of Proposed Order

Section I of the Proposed Order lists the Parties' four (4) sub-issues, including sub-issue (D):

- D. Is continued funding of the Major Maintenance Repair Account ("MMRA") through additional charges in WHWC's rates for water service reasonable?

WHWC, at page 4, paragraph 8 of its Application,² states:

8. Applicant requests a rate increase to cover its operating expenses and fund certain reserves under a "break-even" approach. See Lanai Water Co., Inc., Decision and Order No. 14739. Applicant, however, reserves the right to request a rate of return in future proceedings and is not hereby waiving any right to do so. If the Commission or any other party believes that this approach for determining the rate increase is unreasonable, Applicant respectfully requests early notification to allow it to provide rate of return testimony and revised exhibits as soon as possible.

¹The procedural schedule, as proposed, also does not include the filing of a settlement agreement. Nonetheless, the Parties are not precluded from filing a settlement agreement, if settlement is reached.

²WHWC's Application, Verification, Certificate of Service, and Exhibits 1 to 7-4, filed on December 30, 2004.

In the event the MMRA is discontinued, WHWC contemplates seeking an increase in its water rates under the rate of return methodology, consistent with HRS § 269-16(b). Thus, the commission amends sub-issue (D) by adding the following sentence:

If not, is WHWC's projected rate base for the 2005 test year reasonable, are the properties included in WHWC's rate base used and useful for public utility purposes, and is the requested rate of return fair?

In making this modification, the commission notes that the burden of proof is upon WHWC "to provide substantive and reliable evidence to support the requested rate adjustment."³

B.

Section II of Proposed Order

Section II of the Proposed Order states in part:

If there are substantial disagreements following the filing of the [Statements of Position], 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.

At this juncture, there is no right to a contested case hearing under HRS § 269-16(f):

In the event the conditions set forth in HRS § 269-16(f)(3) are met, i.e., the Parties strictly comply with the established procedural schedule and there is no intervention, "the [P]arties shall not be entitled to a contested case hearing[.]" "[p]rior to the issuance of the

³Act 168, Section 1, at 824.

commission's proposed decision and order[.]"
HRS § 269-16(f)(3).⁴

Instead, only if one (1) or both Parties object to the proposed Decision and Order, or if the Parties waive the right to the commission's issuance of a proposed Decision and Order within six (6) months of WHWC's complete Application, is a contested case hearing contemplated under HRS § 269-16(f).

Accordingly, the commission removes the "and the parties do not waive the right to a hearing" language from Section II of the Proposed Order.

C.

Approved, as Modified

The commission approves the Proposed Order, subject to the above-referenced revisions.

II.

Orders

THE COMMISSION ORDERS:

1. The Parties' Proposed Stipulated Procedural Order, submitted on February 18, 2005 and attached hereto as Exhibit 1, is approved as modified.

2. Section I, page 4, sub-issue (D) of the Proposed Order, is modified to read as follows:

D. Is continued funding of the Major Maintenance Repair Account ("MMRA") through additional charges in WHWC's rates for water service reasonable?

⁴Order No. 21574, filed on January 28, 2005, at 6.

If not, is WHWC's projected rate base for the 2005 test year reasonable, are the properties included in WHWC's rate base used and useful for public utility purposes, and is the requested rate of return fair?

3. Section II, page 5 of the Proposed Order, is modified to read as follows:

If there are substantial disagreements following the filing of the [Statements of Position], and the parties cannot resolve the differences by stipulation, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

4. In all other respects, unless ordered otherwise by the commission, this Stipulated Procedural Order, as modified, remains unchanged.

DONE at Honolulu, Hawaii MAR - 7 2005

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By Wayne H. Kimura
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

04-0373.cs

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Application of)	
)	
WAIKOLOA WATER COMPANY, INC. dba,)	DOCKET NO. 04-0373
WEST HAWAII WATER COMPANY)	
)	
For Expedited Review and Approval to Increase)	
Rates)	
_____)	

STIPULATED PROCEDURAL ORDER NO. _____

Filed _____, 2005

At _____ o'clock ____m.

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
WAIKOLOA WATER COMPANY, INC. dba,) DOCKET NO. 04-0373
WEST HAWAII WATER COMPANY)
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For Expedited Review and Approval to Increase)
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)
_____)

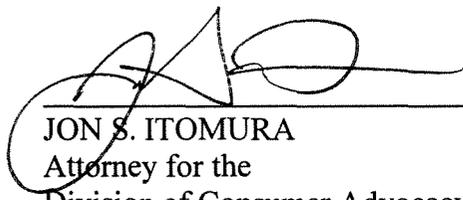
STIPULATED PROCEDURAL ORDER

Applicant Waikoloa Water Company, Inc., d/b/a West Hawaii Water Company (“WHWC”) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (“Consumer Advocate”) hereby stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

DATED: Honolulu, Hawai‘i, February 18, 2005.



JULIA K. KANE
Attorney for Applicant



JON S. ITOMURA
Attorney for the
Division of Consumer Advocacy
Department of Commerce and Consumer Affairs

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
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) DOCKET NO. 04-0373
 WAIKOLOA WATER COMPANY, INC. dba,)
 WEST HAWAII WATER COMPANY)
)
 For Expedited Review and Approval to Increase)
 Rates)
)
)
 _____)

STIPULATED PROCEDURAL ORDER

On December 30, 2004, Waikoloa Water Company, Inc., d/b/a West Hawaii Water Company (“WHWC”) filed an application for expedited review and approval to increase its rates and revise its rate schedules pursuant to Hawaii Revised Statutes (“HRS”) § 269-16, as amended by 2004 Hawaii Act 168. WHWC served copies of the application on the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (“Consumer Advocate” or “CA”).

By Order No. 21574, filed January 28, 2005, the Public Utilities Commission (“Commission”) directed WHWC and the Consumer Advocate to submit a stipulated procedural schedule for the Commission’s consideration and approval by February 18, 2005 (twenty-one days from the date of Order No. 21574).

WHWC and the Consumer Advocate have reached an agreement on procedural matters and submit this Stipulated Procedural Order to the Commission, which is acceptable to the parties.

ACCORDINGLY, IT IS ORDERED that the following Schedule of Proceedings and procedures shall be utilized in this docket.

I.

ISSUES

The underlying issue in this case is whether WHWC's proposed change in rates is reasonable? This will necessarily involve, in turn, a review of sub-issues including but not limited to the following:

- A. Are the proposed tariff, rates, and charges just and reasonable?
- B. Are the revenue forecasts for the 2005 test year at present rates and proposed rates reasonable?
- C. Are the projected operating expenses for the 2005 test year reasonable?
- D. Is continued funding of the Major Maintenance Repair Account ("MMRA") through additional charges in WHWC's rates for water service reasonable?

II.

SCHEDULE OF PROCEEDINGS

WHWC Application for rate increase approval	December 30, 2004
CA Information Requests ("IRs") to WHWC ¹	Monday, February 28, 2005
WHWC IR Responses to CA	Friday, March 18, 2005
CA Supplemental IRs ("SIRs"), if necessary	Friday, April 1, 2005
WHWC Responses to SIRs	Friday, April 15, 2005
CA Statement of Position ("SOP")	Monday, May 2, 2005

¹ Whenever possible, parties will provide a copy of documents on diskette upon request.

- * If the CA objects to approval of the application, or requests that approval be subject to conditions

If there are substantial disagreements following the filing of the 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 WHWC determines that a Reply SOP is unnecessary, WHWC and the Consumer Advocate will notify the Commission that the proceeding is ready for decision making.

III.

MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A. Requests for Information

To the extent practical, WHWC and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests (“IR”) and responses (“RIR”) informally to attempt to work out problems with respect to understanding the scope and meaning of information requests, or with respect to the availability of information. 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.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (documents consisting of 100 pages or more), 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 with all formula and cell references intact available to the other party and the Commission.

A party shall not be required, in response to an information request, to provide data that are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, *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 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 governing this docket.

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

B. Matters of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that WHWC 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 water 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 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.

C. Copies of Filings and Information Requests

1. Filings:

Commission	Original + 8 copies
WHWC	2 copies
Consumer Advocate	3 copies

2. Information Requests and Responses:

Commission	Original + 8 copies
WHWC	2 copies
Consumer Advocate	3 copies

3. All pleadings, and other documents required to be filed with the Commission shall be filed at the office of 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.

4. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or via facsimile. In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via diskette or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if work papers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such work papers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 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 II.C.1 and II.C.2 above.

D. 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 on matters of practice and procedure through their own counsel or designated official.

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

E. 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, this Stipulated Procedural Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearings to prevent manifest injustice.

DONE at Honolulu, Hawai'i, this _____ day of February, 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAI'I

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

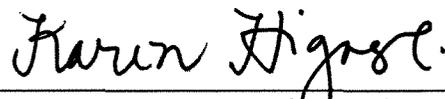
I hereby certify that I have this date served a copy of the foregoing Order No. 21675 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
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Honolulu, HI 96813

Counsel for WEST HAWAII WATER COMPANY



Karen Higashi

DATED: MAR - 7 2005