

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
HOH UTILITIES, LLC )  
For Review and Approval of Rate )  
Increases and Revised Rate )  
Schedules. )  
\_\_\_\_\_ )

DOCKET NO. 05-0024

ORDER NO. 21729

Filed April 11, 2005  
At 3 o'clock P.M.

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

2005 APR 12 A 8:14

RECEIVED

Karen Higashi  
Chief Clerk of the Commission

APR 11 2005 A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi



Chapter 61, Subchapter 8 of the Hawaii Administrative Rules ("HAR"); (2) an Automatic Power Cost Adjustment Clause ("APCAC"), applicable to its sewer rates;<sup>2</sup> and (3) the submission by Applicant of unaudited financial statements, pursuant to HAR § 6-61-92, in lieu of the audited financial statements required by HAR § 6-61-75.<sup>3</sup> Applicant also requests a public hearing, in accordance with HRS §§ 269-12 and 269-16.

Applicant served copies of the Application upon the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") (together with Applicant, the "Parties"). The Consumer Advocate notes that Applicant may not have strictly complied with all applicable rules; however, it does not object to a finding that the Application is complete.<sup>4</sup>

## II.

### Rate Review Process

HOH will be using a 2005 calendar test year. As a public utility with annual gross revenues of less than \$2 million, HOH's Application is filed in accordance with Act 168, which streamlines the rate review process for small

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<sup>2</sup>The proposed APCAC would tie sewer service charges to any corresponding increase or decrease in electricity costs charged Applicant by Kauai Island Utility Cooperative. See Exhibit HOH 5 to the Application.

<sup>3</sup>As a small utility with annual revenues substantially less than \$2,000,000, Applicant asserts that the requirement of submitting audited financial statements would pose a significant financial burden on Applicant.

<sup>4</sup>Consumer Advocate's Statement of Position Regarding Completeness of Application ("Statement of Completeness"), at 3.

utilities such as HOH. In brief, the commission must make every effort to issue its proposed decision and order within six (6) months from the filing date of HOH's complete Application, "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

A.

Balance Sheet

HOH seeks permission to submit its unaudited balance sheet in lieu of the audited balance sheet required by HAR § 6-61-75-(b)(1). HOH states that "[a]s a small utility with annual revenues substantially less than \$2,000,000, Applicant does not have audited annual financial reports. To have one prepared for this Application would delay the filing and would unjustly impose additional financial burdens on the Applicant."<sup>5</sup>

The Consumer Advocate does not object to HOH's request, "on the condition that Applicant make available for review all documentation supporting Applicant's financial statements, including all books and records."<sup>6</sup>

The Commission finds good cause to approve HOH's request, subject to the Consumer Advocate's proposed condition.<sup>7</sup>

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<sup>5</sup>Application at 6.

<sup>6</sup>Statement of Completion at 6.

<sup>7</sup>See generally HAR § 6-61-92, which authorizes the commission to waive certain requirements governing rate increase applications if the requirements will "impose a financial hardship on the applicant or be unjust or unreasonable."

B.

Complete Application

In its Statement of Completeness, the Consumer Advocate asserts that HOH has not strictly complied with the requirements of Subchapter 6, Chapter 61, HAR, by failing to provide the following: (1) pursuant to HAR § 6-61-75(a)(4), the amount of bonds authorized and issued, giving the name of the public utility or parent company which issued same, describing each class separately, and giving the date of issue, par value, rate of interest, date of maturity and manner secured, together with amount of interest paid thereon during the last calendar year and any special provisions in the indenture, such as sinking fund provisions and interest coverage; (2) each note outstanding, giving the date of issue, to whom the note is payable, amount, date of maturity, and rate of interest, together with the amount of interest expense thereon during the last calendar year, pursuant to HAR § 6-61-75(a)(5); (3) other indebtedness, giving same by classes and describing security, if any, with a brief statement of devolution or assumption of any portion of indebtedness upon or by any person, pursuant to HAR § 6-61-75(a)(6); and (4) the rate and amount of dividends paid during the five previous calendar years, pursuant to HAR § 6-61-75(a)(7).<sup>8</sup>

Having said this, the Consumer Advocate acknowledges that Applicant's financial statements for 2003-2005 do not reflect any debt, and, thus, the Consumer Advocate assumes that

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<sup>8</sup>Statement of Completeness at 2.

Applicant has no outstanding debt.<sup>9</sup> Thus, the Consumer Advocate does not object to the completeness of the Application. In light of the above, the filing date of HOH's complete Application is January 31, 2005.

C.

Public Hearing

The commission will hold a public hearing on HOH's complete Application on the island of Kauai. The Parties have been notified of the date, time, and location of the public hearing.<sup>10</sup>

III.

Discovery

Given the six (6) month deadline governing the commission's issuance of its proposed decision and order, the Parties shall: (1) initiate the discovery process forthwith; and (2) within twenty-one (21) days from the date of this Order, submit a stipulated procedural schedule setting forth the issues

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<sup>9</sup>The Consumer Advocate recommends that, in the future, Applicant clearly state "whether there are any outstanding bonds or notes of indebtedness or whether there has been any dividend declaration, rather than assume that the information can be gleaned from a review of the financial statements". Statement of Completion at 3.

<sup>10</sup>See commission staff's letter, dated April 4, 2005, transmitting copies of the Notice of Public Hearing to the Parties.

and procedural schedule for Applicant's request to increase its rates.<sup>11</sup>

In the event that the Parties strictly comply with the established procedural schedule and there is no intervention, "[p]rior to the issuance of the commission's proposed decision and order, the [P]arties shall not be entitled to a contested case hearing". HRS § 269-16(f)(3).

#### IV.

##### Orders

###### THE COMMISSION ORDERS:

1. Applicant's request to submit its unaudited balance sheet in lieu of the audited balance sheet required by HAR § 6-61-75(b)(1), is approved, subject to the condition that Applicant shall make available for review all documentation in support of its financial statements, including all books and records.

2. Consistent with HRS § 269-16(d), the filing date of Applicant's complete Application is January 31, 2005.

3. The Parties shall initiate the discovery process forthwith. Unless ordered otherwise, within twenty-one (21) days from the date of this Order, the Parties shall submit to the commission a stipulated procedural schedule setting forth the issues and procedural schedule for Applicant's request to

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<sup>11</sup>The deadline for interested persons to seek intervention or participant status is May 13, 2005. HAR §§ 6-61-57(1) and 6-61-22. Accordingly, in the event intervenor or participant status is later granted to any interested person, the commission will amend the procedural schedule accordingly.

increase its rates. If the Parties are unable to stipulate to such a schedule, each Party shall submit a proposed procedural schedule for the commission's consideration by the applicable deadline date.

DONE at Honolulu, Hawaii APR 11 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

By Janet E. Kawelo  
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Benedyne S. Stone  
Benedyne S. Stone  
Commission Counsel

05-0024.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21729 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  
P. O. Box 541  
Honolulu, HI 96809

MICHAEL H. LAU, ESQ.  
KENT D. MORIHARA, ESQ.  
Davies Pacific Center  
841 Bishop Street, Suite 400  
Honolulu, HI 96813

IAN KAGIMOTO  
HOH UTILITIES, LLC  
4560 Piko Road  
P. O. Box 1214  
Lawai, HI 96765

  
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Karen Higashi

DATED: APR 11 2005