

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
 )  
 MOKULEIA WATER, LLC and )  
 MOKULEIA WATER USERS ASSOCIATION )  
 )  
 Notice of Failure to Comply With )  
 The Commission's Laws and Rules; )  
 Order to Show Cause Why Respondents )  
 Should Not be Assessed a Civil )  
 Penalty. )  
 \_\_\_\_\_ )

DOCKET NO. 05-0009

PREHEARING ORDER NO. 21884

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

2005 JUN 22 A 7:58

RECEIVED

Filed June 21, 2005  
At 11 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.

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\_\_\_\_\_)

Docket No. 05-0009  
Prehearing Order No. 21884

PREHEARING ORDER

By this Prehearing Order, the commission memorializes the actions taken and procedures agreed upon at the prehearing conference held on June 17, 2005 at 11:00 a.m.

I.

Background

By Order No. 21531, filed on January 7, 2005, the commission required MOKULEIA WATER, LLC ("MW") and MOKULEIA WATER USERS ASSOCIATION ("MWUA") (MW and MWUA are collectively referred to as the "Respondents") to, among other things, appear at a hearing on June 28, 2005 at 9:00 a.m. to show cause why they should not be assessed a civil penalty for failure to comply with Hawaii Revised Statutes ("HRS") chapter 269 by operating as a public utility without a certificate of public convenience and necessity. Order No. 21531 further required MOKULEIA BEACH COLONY ASSOCIATION ("Complainant") to appear at the hearing to provide the

commission with information relating to an informal complaint it made against Respondents (collectively, Complainant and Respondents hereinafter referred to as "Parties").<sup>1</sup>

On June 17, 2005, the commission held a prehearing conference with the counsel of Complainant and Respondents (collectively, the "Parties") to discuss the procedures for the hearing that will be held on June 28, 2005. Pursuant to Hawaii Administrative Rules ("HAR") § 6-61-37, this Order memorializes the actions taken and procedures agreed upon at the June 17, 2005 prehearing conference.

## II.

### Orders

THE COMMISSION ORDERS that the following procedures shall govern and control the hearing scheduled to commence on Tuesday, June 28, 2005 at 9:00 a.m. in the commission's hearing room:

1. Counsel representing the Parties may present opening statements of not more than five (5) minutes per party to the Commissioners in the following order: Complainant, MW, and MWUA.

2. Counsel representing the Parties may also present closing statements of not more than five (5) minutes per party

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<sup>1</sup>Informal Complaint number 04-89, filed on June 7, 2004 by Michael W. Gibson, Esq. On behalf of Complainant. Order No. 21531 also noted that the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs is an *ex officio* party to this docket. In a telephone conference with the Consumer Advocate, it advised the commission that it would only observe rather than participate in the proceedings set to begin on June 28, 2005.

to the Commissioners in the same order set forth in ordering paragraph 1.

3. The Parties may present witnesses in the following order: MW, MWUA, and Complainant. Complainant may cross examine the Respondents' witnesses, and Respondents may cross examine the Complainant's witnesses. Redirect examination of witnesses shall be allowed at the discretion and direction of the presiding officer.

4. The Parties shall meet informally to determine the facts and documents to which they may stipulate, and present such agreements to the commission on or before June 24, 2005. The Parties shall, by the same date, provide the commission with their list of witnesses, with a brief description of the issue(s) or matter(s) to which the witness will account at the hearing, and their list of exhibits for the commission's use. Requests for subpoenas, if any, shall be filed with the commission, pursuant to HRS § 269-10 and HAR § 6-61-38, on or before June 22, 2005. Complainant's documents to be submitted into evidence shall be labeled sequentially beginning with "C-1". MW shall label its documents to be submitted into evidence beginning with "R1-1". MWUA shall label its documents to be submitted into evidence beginning with "R2-1".

5. Unless otherwise ordered, the Parties shall not provide the commission with post-hearing briefs, or supplement the record after the close of the adjournment of the hearing by the presiding officer.

6. Consistent with HAR § 6-61-37, this Prehearing Order shall govern and control the subsequent course of the hearing, unless modified by the commission at the hearing to prevent manifest injustice.

DONE at Honolulu, Hawaii JUN 21 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:

*Catherine P. Awakuni*  
Catherine P. Awakuni  
Commission Counsel

05-0009.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Prehearing Order No. 21884 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: JUN 21 2005