

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

PROPOSED DECISION AND ORDER NO. 21885

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

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Karen Higashi
Chief Clerk of the Commission

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KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

TABLE OF CONTENTS

I.	INTRODUCTION	2
	A. Waikoloa, Island of Hawaii	2
	B. Waikoloa Water	2
	1. Potable Water System	3
	2. Non-Potable Irrigation System	4
	C. Allocation	4
	D. Waikoloa Water's Request	5
II.	BACKGROUND	8
	A. Procedural Background	8
	B. Public Hearing Process	10
	C. Act 168	12
III.	ISSUES	12
IV.	SUMMARY OF THE PARTIES' POSITIONS	13
	A. Waikoloa Water's Case-in-Chief	13
	B. Consumer Advocate's Counter-Position	14
	C. Waikoloa Water's Rebuttal	17
V.	OPERATING REVENUES	17
	A. Service Charge	18
	B. Private Fire Service Charge	19
	C. Water Availability Charge	20
	D. Revenues from the Fixed Charges	20
	E. Consumption Charge	21
	F. Revenues from the Consumption Charge	24
	G. Total Operating Revenues	24
VI.	EXPENSES	25
	A. Purchased Power	27
	B. Equipment Rental	30
	1. Rental from WHUC or WHSC	30
	2. Equipment Lease	30
	C. General and Administrative ("G&A")	33
	1. Salaries and Wages	33
	2. Contractual Services/Legal	37
	3. Regulatory Commission/Rate Case Amortization	37
	4. G&A Total	42

VII.	RATE DESIGN	42
	A. Fixed Charges	42
	B. Consumption Charge	44
	C. Major Maintenance and Reserve Account	44
	D. MMRA Summary	48
VIII.	TARIFF RULES	49
	A. Tariff Revisions	49
	B. Power Cost Adjustment Charge	51
	C. Contribution-in-Aid-of-Construction Provision	51
IX.	Ultimate Findings and Conclusions	53
X.	Commission's Observations	54
XI.	Acceptance or Non-Acceptance	54
XII.	Orders	56
	Exhibits	

I.

Introduction

A.

Waikoloa, Island of Hawaii

The Waikoloa community in the South Kohala area on the island of Hawaii consists of two (2) utility service areas: (1) Waikoloa Village; and (2) Waikoloa Beach Resort. Within Waikoloa Village: (1) Waikoloa Water provides water utility service; and (2) West Hawaii Sewer Company ("WHSC") provides wastewater utility service. West Hawaii Utility Company ("WHUC") provides water and wastewater utility services to the Waikoloa Beach Resort.

WHUC's sole stockholder is Waikoloa Development Company ("WDC"), while Waikoloa Land and Cattle Company ("WLCC") owns all of the stock in Waikoloa Water and WHSC. WDC and WLCC, in turn, are related companies with common ownership.

B.

Waikoloa Water

Within its service area of Waikoloa Village, Waikoloa Water provides: (1) potable water to residential (single-family and condominiums), public authority, and commercial developments; and (2) non-potable irrigation water to a golf course.

Potable Water System

Waikoloa Water's potable water system is part of an overall potable water system that serves the entire Waikoloa area, including Waikoloa Village, Waikoloa Highlands and Ranchlands, and the Waikoloa Beach Resort. The wells, transmission lines, and majority of the system's storage facilities are jointly operated and maintained by Waikoloa Water and WHUC, pursuant to a water sharing agreement.

Waikoloa Water and WHUC deliver water to their respective service areas from five (5) wells, DW-1 to DW-5, located at the 1200' elevation, east of Waikoloa Village.² A sixth well (DW-6) that is currently under development by WHUC "will be outfitted and brought on line by the end of 2005."³ In addition, during 2005: (1) an additional potable water well (DW-7) is scheduled for design, drilling, and testing; and (2) the expansion of Tank 1210, including the construction of a second storage tank, is also planned.⁴

The joint potable water system also includes: (A) four (4) storage tanks, each with one (1) million gallons of storage

²Wells DW-1 and DW-2 are owned by WHUC, wells DW-4 and DW-5 are owned by Waikoloa Water, and well DW-3 is jointly owned by WHUC and Waikoloa Water.

³Exhibit 1, at 2, of Waikoloa Water's Application. See also Exhibit 7-1, at 8, of Waikoloa Water's Application. In an update, Waikoloa Water states that "DW-6 is still under construction and is expected to be in service in the first quarter of 2006." Waikoloa Water's response to CA-SIR-16(b).

⁴Id. at 9 - 10.

capacity;⁵ and (B) approximately 10.8 miles of transmission lines that deliver water from the wells to the respective service areas.⁶ Within Waikoloa Village, Waikoloa Water operates approximately sixteen (16) miles of distribution lines.

2.

Non-Potable Irrigation System

From a Waikoloa Water-owned irrigation well located west of Waikoloa Village, brackish ground water is delivered to the main irrigation lake on the golf course. The golf course operator is responsible for: (1) operating and maintaining the irrigation well; (2) pressurizing the golf course irrigation system; and (3) the operation and maintenance costs associated with the irrigation system. The golf course operator pays Waikoloa Water a royalty fee for the irrigation water.

C.

Allocation

Waikoloa Water does not have any employees. Rather, WDC, its parent entity, provides all of Waikoloa Water's

⁵Tanks 1200S-1 and 300-1 are owned by WHUC, Tank 1200N-1 is owned by Waikoloa Water, and Tank 1200S-2 is jointly owned by WHUC and Waikoloa Water. In addition, two (2) 2.5 million gallon concrete storage tanks with aluminum domes (Tanks 300-2 and 200-3): (1) are currently under construction by WHUC; and (2) when completed, will serve WHUC's Waikoloa Beach Resort service area.

⁶The operation and maintenance costs associated with the portion of the transmission lines that serve both service areas are shared by WHUC and Waikoloa Water pursuant to the water sharing agreement; provided that WHUC is solely responsible for the operation and maintenance of the transmission line below the 300' elevation that delivers water to the Waikoloa Beach Resort.

employment services, including operational, general and administrative support, and management, pursuant to contract. The cost of the support provided by WDC to Waikoloa Water, WHSC, or WHUC are allocated to each utility based on the time spent performing various tasks.

For the water operations, Waikoloa Water incurs all of the costs to operate and maintain the deep well field, including labor costs. Waikoloa Water then allocates a portion of the incurred costs to WHUC, pursuant to the water sharing agreement.

D.

Waikoloa Water's Request

Waikoloa Water requests the commission's approval to increase its rates and revise its rate schedules, pursuant to: (1) HRS § 269-16, as recently amended by Act 168; and (2) Hawaii Administrative Rules ("HAR") § 6-61-88. Waikoloa Water seeks an increase of approximately \$120,543, or ten (10) per cent over revenues at present rates. The requested increase is based on an estimated total revenue requirement of \$1,330,353 for the 2005 calendar test year ("test year").

Waikoloa Water uses a zero (0) rate base for the test year, but reserves its right to re-visit this issue in future rate proceedings.⁷ Waikoloa Water anticipates the completion of utility plant additions such that for its next application for a

⁷See Exhibit 7-2, at 3, 16 - 17, and Exhibit 7-3, Section 9, of Waikoloa Water's Application. Waikoloa Water employed a "rate base test" to determine whether rate base exists for the test year. Exhibit 7-3, Section 9, of Waikoloa Water's Application.

general rate increase, it may have an adequate rate base under the rate of return methodology.

Waikoloa Water's most recent general increase in its water rates was in 1999.⁸ Waikoloa Water states:

1. Its current request for a general rate increase is to break even after the payment of its operating costs, and to fund improvements and expansions to its operations necessary for significant new developments in the Waikoloa Village service area.

2. As a result of these new developments, the demand for water has increased from an average of 1,289,978 gallons per day to 1,670,630 gallons per day.

3. It has made several additions to its utility plant to accommodate the increase in demand. Such improvements include: (A) developing a new sixth well pursuant to the water sharing agreement; (B) replacing a water reservoir; (C) expanding a new seventh well; (D) designing and fabricating two (2) replacement well pumps; and (E) replacing the pressure reducing valves at the 600 and 900 foot elevations.

Waikoloa Water requests that its general rate increase and revisions to its rate schedules take effect by increasing its: (1) applicable monthly service charge, based on each customer's meter size; (2) applicable monthly private fire service charge, based on each customer's meter size; and

⁸Decision and Order No. 17263, filed on September 30, 1999, in Docket No. 98-0060, *In re Waikoloa Water Co., Inc., dba West Hawaii Water Co.*

(3) monthly water commodity charge, aka the consumption charge based on each customer's monthly water usage. Waikoloa Water's present and proposed charges are as follows:

Monthly Service Charge

<u>Meter Size</u>	<u>Present Charge</u>	<u>Proposed Charge</u>
5/8"	\$3.25	\$7.20
3/4"	\$3.25	\$7.20
1"	\$6.25	\$13.80
1-1/2"	\$11	\$24.20
2"	\$15	\$33
3"	\$30	\$66
4"	\$50	\$110
6"	\$100	\$220
8"	\$180	\$396

Monthly Private Fire Service Charge

<u>Meter Size</u>	<u>Present Charge</u>	<u>Proposed Charge</u>
3"	\$7	\$66
4"	\$10	\$110
6"	\$20	\$220
8"	\$30	\$396

Monthly Water Consumption Charge

(per 1,000 gallons ("TG") of water)

<u>Present Charge</u>	<u>Proposed Charge</u>
\$1.5234	\$1.8837

Waikoloa Water's monthly water consumption charge of \$1.5234 per TG of water includes an allowance of \$0.10 per TG of water for a separate net operating reserve account ("NORA") that consists of two (2) components: (1) the major maintenance and repair fund ("MMRF") (\$0.03 per TG of water); and (2) the operating contingency fund ("OCF") (\$0.07 per TG of water).⁹

⁹The NORA is commonly referred to as the major maintenance reserve account, major maintenance repair account, or the MMRA.

"Waikoloa Water is not proposing any changes to this arrangement."¹⁰ Nonetheless, the NORA is subject to the commission's review, modification, or termination at any time.¹¹

Waikoloa Water's present rates also include an automatic power cost adjustment factor ("PCAF") that passes through to ratepayers, increases and decreases in electricity costs.¹²

II.

Background

A.

Procedural Background

Waikoloa Water served copies of its Application upon the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("CA" or "Consumer Advocate") (collectively, the "Parties"). The Consumer Advocate did not object to the

¹⁰Exhibit 7-2, at 17, of Waikoloa Water's Application.

¹¹Decision and Order No. 17263, at 24, Ordering Paragraph 2.

¹²"In recent months, the PCAF has been averaging \$0.3417 per unit of water sold." Exhibit 7-2, at 3, and Exhibit 7-3, Section 4, of Waikoloa Water's Application.

Waikoloa Water also explains that while "the increase from \$1.5234 to \$1.8837 appears large, present customers are currently paying \$1.4234 + 0.10 + 0.3417 or \$1.8651 per unit. The proposed rate of \$1.8837 factors in the power costs at the present time as well as the operating reserves. [Waikoloa Water] is proposing to retain the PCAF in [its] new rates." Exhibit 7-2, at 3, of Waikoloa Water's Application. See also Exhibit 7-3, Appendix C, "Well Field Power Memo," of Waikoloa Water's Application.

completeness of Waikoloa Water's Application.¹³ Hence, the filing date of Waikoloa Water's complete Application is December 30, 2004, consistent with HRS § 269-16(d) and (f)(3).¹⁴

On March 23, 2005, the commission held a public hearing on Waikoloa Water's Application, at the Waikoloa Village Association Community Center, pursuant to HRS §§ 269-12(c) and 269-16(f)(2).

Waikoloa Water responded to the: (1) Consumer Advocate's information requests, on March 18 and April 15, 2005; and (2) commission's clarifying information requests on April 5 and 7, 2005.

On May 8, 2005, the Consumer Advocate filed its direct testimonies and exhibits, in lieu of a position statement. On May 16, 2005, Waikoloa Water filed its rebuttal position statement and exhibits, supported by the written verification of its development manager. Waikoloa Water's rebuttal statement "addresses the limited areas of dispute regarding [Waikoloa Water]'s revenue requirements."¹⁵ On May 20, 2005, in response to the commission's inquiry, Waikoloa Water informed the commission that this proceeding is ready for decision-making.¹⁶ On May 25,

¹³Consumer Advocate's Statement of Position Regarding Completeness of Application, filed on January 19, 2005, in accordance with HRS § 269-16(d).

¹⁴See Order No. 21574, filed on January 28, 2005.

¹⁵Waikoloa Water's rebuttal statement, at 2. See also id. at 3 (Waikoloa Water's rebuttal statement addresses the disputed issues relating to purchase power, equipment leases, salaries, regulatory expenses, and water consumption).

¹⁶Waikoloa Water's letter, dated May 20, 2005.

2005, Waikoloa Water submitted its current tariff rules and rate schedule, in response to the commission's directive.

B.

Public Hearing Process

The commission's Notice of Public Hearing was published statewide in various newspapers, in accordance with HRS §§ 1-28.5 and 269-12(c).¹⁷ On March 3, 2005, Waikoloa Water notified its ratepayers by United States ("U.S.") mail of the upcoming public hearing ("Waikoloa Water's Notice"), in compliance with HRS § 269-12(c).¹⁸

At the public hearing, Waikoloa Water's general manager and the Consumer Advocate orally testified and submitted written comments. Numerous ratepayers also testified in-person.¹⁹ WLCC's development manager testified in rebuttal and responded to an array of questions posed by the audience/ratepayers. The Consumer Advocate, likewise, testified in rebuttal. After the audience/ratepayers completed their questioning, the commission closed the public hearing.

¹⁷Specifically, the commission's Notice of Public Hearing was published on February 28, March 7, 14, and 21, 2005, in The Garden Island, Hawaii-Tribune Herald, Honolulu Star-Bulletin, The Maui News, and West Hawaii Today.

¹⁸See Waikoloa Water's letter, dated March 10, 2005, with enclosure. See also the commission's letters, dated January 21 and March 1, 2005.

¹⁹The commission also received one (1) comment each by electronic and U.S. mail, respectively. The author of the electronic comment read excerpts at the public hearing, while the other comment was sent to the commission more than two (2) weeks after the conclusion of the public hearing.

In general, the ratepayers opposed or expressed concerns with Waikoloa Water's proposed rate increase or the magnitude and impact of the increase, with many noting their confusion over the content of Waikoloa Water's Notice.²⁰ In response, Waikoloa Water: (1) apologized for the confusion over its Notice; (2) assured the audience that Waikoloa Water would promptly send a new communication to its ratepayers; and (3) invited anyone who was interested in having his or her monthly water bill calculated under the proposed rates, to contact Waikoloa Water's office.²¹

In follow-up, on April 4, 2005, Waikoloa Water issued a clarification letter to its ratepayers, dated March 31, 2005.²² Waikoloa Water, in its clarification letter: (1) calculated the percentage and monetary increases using three (3) specific examples (high water usage, average water usage, and low water usage); and (2) reiterated its invitation to "recalculate" a ratepayer's "most recent water bill to the proposed rates."²³

²⁰In essence, while Waikoloa Water requests a ten (10) per cent increase in its revenues over present rates, based on the corresponding proposed increases in the monthly service charge and monthly water consumption charge, an individual ratepayer's monthly water bill, under the proposed new charges reflected in Waikoloa Water's Notice, will likely increase by more than ten (10) per cent. See Transcript of the March 23, 2005 Public Hearing.

²¹Id. WLCC's general manager, in response to verbal inquiries, also explained Waikoloa Water's use and treatment of contributions-in-aid-of-construction funds received by developers.

²²Waikoloa Water's responses to PUC-IR-102 and PUC-IR-201.

²³Waikoloa Water's response to PUC-IR-102, Attachment, at 1.

C.

Act 168

As a public utility with annual gross revenues of less than \$2 million, Waikoloa Water's Application is filed in accordance with Act 168, which streamlines the rate review process for small utilities such as Waikoloa Water. In brief, the commission must make every effort to issue its Proposed Decision and Order within six (6) months from the filing date of Waikoloa Water'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).

The commission issues this Proposed Decision and Order, in accordance with Act 168.

III.

Issues

The underlying issue, as set forth in Stipulated Procedural Order No. 21675 (as modified), filed on March 7, 2005, is the reasonableness of Waikoloa Water's proposed general rate increase. This involves, in turn, a review of the following sub-issues:

1. Are the proposed tariffs, rates, and charges for the test year just and reasonable?
2. Are the revenue forecasts for the test year at present and proposed rates reasonable?

3. Are the projected operating expenses for the 2005 test year reasonable?
4. Is continued funding of the MMRA through additional charges in Waikoloa Water's rates for water service reasonable?

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

IV.

Summary of the Parties' Positions

A.

Waikoloa Water's Case-in-Chief

Waikoloa Water's case-in-chief is set forth in: (1) its Application and supporting exhibits, which include the pre-filed direct testimonies of its general manager (Waikoloa Water's Exhibit 7-1) and consultant (Waikoloa Water's Exhibit 7-2), and a revenue requirement study, dated December 2004, prepared and sponsored by its consultant (Waikoloa Water's Exhibit 7-3); and (2) its responses to the Consumer Advocate's information requests, which update and revise certain information. Waikoloa Water uses a zero (0) rate base for the test year.

B.

Consumer Advocate's Counter-Position

The Consumer Advocate's counter-position is set forth in its direct testimonies and exhibits. The Consumer Advocate states that, consistent with the intent of Act 168, in order to expedite this proceeding, its review focused on critical elements of Waikoloa Water's request.

The Consumer Advocate notes that the primary areas of differences between its position and the Waikoloa Water's case-in-chief are:

1. Differences in the test year number of customers and gallons of water sold, resulting in differences in the revenues at present rates; and

2. Differences in the reasonable level of operating expenses, largely due to normalization adjustments necessary for ratemaking purposes.

The Consumer Advocate notes that: (1) Waikoloa Water is not requesting a return on rate base, thereby mitigating the need to address rate base;²⁴ thus (2) Waikoloa Water's revenue requirement, as proposed, is intended to recover the operating expenses, depreciation, and taxes other than income taxes, plus a contribution to the MMRA.

²⁴Given Waikoloa Water's Application, and in an effort to expedite this proceeding, the Consumer Advocate did not review Waikoloa Water's rate base components or calculation. CA-T-1 at 5 and footnote 3 thereto; and CA-T-2 at 50 - 51.

The Consumer Advocate asserts that: (1) Waikoloa Water's total revenue requirement of \$1,269,375 (exclusive of \$60,978 in MMRA collections), is \$100,270 more than the Consumer Advocate's projected revenue requirement of \$1,169,104; and (2) Waikoloa Water's requested increase in revenues over present rates of \$120,543 is overstated.

For Waikoloa Water's cost of service and rate design, the Consumer Advocate notes that for water and wastewater utilities: (1) meter service charge rates are intended to produce revenues sufficient to recover the fixed costs of the utility's operations from each customer class, depending on meter size; and (2) the variable costs are then recovered through the consumption charge.²⁵

Waikoloa Water's fixed costs of operation are: (1) depreciation expense, \$12,958; and (2) general and administrative ("G&A") expense, \$269,194. Thus, Waikoloa Water's revenues from its proposed service charge rates should produce the sum of \$282,152. However, Waikoloa Water's proposed service charge rates are intended to generate \$184,835 in revenues:²⁶

Thus, the [service charge] rates that would generate sufficient revenues to recover the fixed costs of operation would exceed the rates proposed by [Waikoloa Water]. Because the maximum increase

²⁵In general, Waikoloa Water concurs with this cost of service principle. See Exhibit 7-2 at 18 - 19 and Exhibit 7-3 at 31, of Waikoloa Water's Application.

²⁶See, e.g., Waikoloa Water's Exhibit 7-3, Appendix G, as adjusted; and CA-T-1 at 11, footnote 8. \$142,715 (service charge revenues, proposed rates) + \$36,960 (private fire service revenues, proposed rates) + \$5,160 (water availability charge revenues, proposed rates) = \$184,835. See CA-T-1 at 11, footnote 8.

in the monthly service charge rates cannot exceed the rates set forth in [Waikoloa Water's] [A]pplication and notice to customers, the Consumer Advocate will **not object** to [Waikoloa Water's] proposed monthly service charge rates. It should be noted that in future rate proceedings, [Waikoloa Water] should consider developing rates that better recover the fixed operating expenses through the monthly service charge.²⁷

For the consumption charge, the Consumer Advocate proposes a rate of \$1.5810 per TG versus Waikoloa Water's proposed consumption charge of \$1.8837 per TG. The Consumer Advocate calculates its \$1.5810 per TG proposed consumption charge by:

. . . subtracting the monthly service charge revenues (including the service charge revenues for fire protection and vacant lots) from the total revenue requirement of \$1,169,104, and dividing the result by the total consumption charge estimated for the test year of 623,403 [TG]. If a major maintenance reserve contribution is authorized in [this] proceeding, the Consumer Advocate recommend[s] a major maintenance reserve contribution of \$0.0782 per [TG], resulting in a total variable rate of \$1.6592.²⁸

The Consumer Advocate emphasizes that: (1) it reserves the right in future rate cases to take issue with matters it may not have specifically addressed in this proceeding; and (2) its silence on these matters should not be construed as the acceptance of Waikoloa Water's recommendations.

²⁷CA-T-1 at 11 (boldface added). See also CA-T-2 at 3.

²⁸CA-T-1 at 11 - 12. See also CA-T-2 at 3.

C.

Waikoloa Water's Rebuttal

Waikoloa Water makes it clear that its rebuttal statement addresses the limited areas of dispute regarding its revenue requirement, namely: (1) purchased power expense; (2) equipment rental expense; (3) salaries; (4) regulatory commission expense; and (5) water consumption. In addition, Waikoloa Water: (1) reiterates its support for the continued funding of the MMRA; and (2) seeks approval of a revised consumption charge of \$1.8181 per TG (\$1.7299 per TG + 0.0882 per TG, MMRA contribution) (Waikoloa Water's Exhibit A).

V.

Operating Revenues

In its Application (Waikoloa Water's Exhibits 5 and 7-3, Sections 4 and 13), Waikoloa Water calculates its revenues at present and proposed rates, as follows:²⁹

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Proposed Rates</u>
Operating Revenues	\$1,148,832	\$120,543	\$1,269,375
Other Revenues	\$60,978		\$60,978

²⁹Waikoloa Water classifies the monies received from the MMRA surcharge as "Other Revenues."

The Consumer Advocate, in turn, calculates Waikoloa Water's revenues at present and proposed rates (Exhibit CA-101) as follows:

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Proposed Rates at 0.00%</u>
Operating Revenues	\$1,172,916	(\$3,812)	\$1,169,104
Other Revenues	0		0

Waikoloa Water's latest figures are set forth in Exhibit A of its rebuttal statement (Waikoloa Water's Exhibit A):

	<u>Proposed Rates</u>
Operating Revenues	\$1,247,412
Other Revenues	\$54,228

The breakdown of the Consumer Advocate's estimates of Waikoloa Water's revenues at present rates is as follows (Exhibit CA-201):

Service Charge:	\$63,942
Private Fire Service Charge:	\$3,360
Water Availability Charge: (vacant lots)	\$5,160
Consumption Charge:	\$887,352
Power Cost Adjustment:	<u>\$213,102</u>
Total Revenues, Present Rates:	\$1,172,916

A.

Service Charge

The Consumer Advocate makes certain adjustments to Waikoloa Water's customer count, as a result of certain

corrections made by Waikoloa Water in response to the Consumer Advocate's inquiries. The Consumer Advocate's average test year customer count for Waikoloa Water, and resulting service charge revenues at present rates, are (Exhibit CA-201):

<u>Meter Size</u>	<u>Customer Count</u>	<u>Revenues</u>
5/8" x 3/4"	1,498	\$58,422
1"	4	\$300
1-1/2"	5	\$660
2"	20	\$3,600
3"	1	\$360
4"	1	<u>\$600</u>
Total Revenues, Service Charge:		\$63,942

In rebuttal, Waikoloa Water does not discuss or object to the Consumer Advocate's test year customer count or service charge revenues at present rates.

B.

Private Fire Service Charge

The Consumer Advocate increases by one (1) 6" meter, Waikoloa Water's count for the test year:

<u>Meter Size</u>	<u>Customer Count</u>	<u>Revenues</u>
6"	14*	\$3,360
8"	0	<u>-</u>
Total Revenues, Fire Service Charge:		\$3,360

*Note: The 6" meters are for fire service and are part of the dual meter set-up where each customer has both a 2" meter and a 6" meter. The 6" meter is billed as a private fire service. See Waikoloa Water's response to CA-IR-1.

In rebuttal, Waikoloa Water does not discuss or object to the Consumer Advocate's adjustment and resulting estimate of private service charge revenues at present rates.

C.

Water Availability Charge
(Vacant Lots)

The Consumer Advocate does not discuss or object to Waikoloa Water's projected test year revenues of \$5,160 from the water availability charge, as follows:³⁰

<u>Vacant Lots</u>	<u>Revenues</u>
215	\$5,160

D.

Revenues from the Fixed Charges

Based on Section V(A) - (C), above, the Parties agree on the test year customer count and revenues generated from Waikoloa Water's fixed charges under present rates, as follows:

<u>Meter Size</u>	<u>Customer Count</u>	<u>Revenues</u>
5/8" x 3/4"	1,498	\$58,422
1"	4	\$300
1-1/2"	5	\$660
2"	20	\$3,600
3"	1	\$360
4"	1	\$600
6"	14	\$3,360

Vacant Lots

215 \$5,160

Total Revenues, Fixed Charges: \$72,462

The commission finds reasonable the Parties' agreed-upon test year customer count and revenues generated from Waikoloa Water's fixed charges under present rates.

³⁰See Waikoloa Water's Exhibit 7-3 at Sections 4.3, 4.7, and 4.8. Waikoloa Water is not seeking to increase its monthly water availability service charge of \$2 per vacant lot. See Exhibits 2, 3, and 7-2 at 3, of Waikoloa Water's Application.

E.

Consumption Charge

For purposes of determining the customer count in calculating Waikoloa Water's consumption charge revenues, the Consumer Advocate increases the number of residential customers (5/8" x 3/4") by sixteen (16), from 1,498 to 1,514:³¹

<u>Meter Size</u>	<u>Customer Count</u>
5/8" x 3/4"	1,514
1"	4
1-1/2"	5
2"	20
3"	1
4"	1
6"	14

The Consumer Advocate, moreover, states that Waikoloa Water's estimated "average annual use per residential customer of 253,650 gallons is reasonable."³²

The Consumer Advocate recommends using Waikoloa Water's actual 2004 water sales to forecast the test year water sales for the commercial, public authority, multi-family, and construction classes. In addition, based on the Consumer Advocate's calculation of Waikoloa Water's average test year residential customer count for consumption, the Consumer Advocate recommends increasing Waikoloa Water's test year residential water sales by 1,014,000 gallons, to 384,026,000 gallons.

³¹See CA-T-2 at 10 - 12; and Exhibits CA-201 and CA-205.

³²CA-T-2 at 10.

Accordingly, the Consumer Advocate forecasts the following amount of test year water sales (see Exhibit CA-201):

Residential:	384,026 TG
Commercial:	27,108 TG
Public Authority:	30,282 TG
Multi-Family:	170,115 TG
Construction:	<u>11,872 TG</u>
Total:	623,403 TG

Based on the Consumer Advocate's forecasted amount of test year water sales, its estimated test year consumption charge revenues, at its recommended water consumption rate of 1.4234 per TG, are (Exhibit CA-201):

<u>Customer Class</u>	<u>Revenues</u>
Residential	\$546,623
Commercial	\$38,586
Public Authority	\$43,103
Multi-Family	\$242,142
Construction	<u>\$16,899</u>
Total	\$887,352
Power Cost Adjustment	<u>\$213,102</u>
Total	\$1,100,454

In response, Waikoloa Water does not take issue with the Consumer Advocate's customer count for consumption or its forecast of test year water sales for commercial, public authority, and multi-family customers.

Meanwhile, for consistency, Waikoloa Water recommends using its 2004 actual residential water sales as the test year water sales for residential customers (Waikoloa Water's Exhibits E and G). Thus, Waikoloa Water proposes to reduce the Consumer Advocate's estimated residential test year water sales by 2,801,000 gallons, to 381,225,000 gallons.

For the construction test year water sales, Waikoloa Water contends that the Consumer Advocate's use of Waikoloa Water's 2004 actual construction water sales is inconsistent with the normalization principle and Waikoloa Water's construction water sales from 1991 through February 2005. Instead, Waikoloa Water asserts that its average construction water sales for the fifteen (15)-year period from 1991 through December 2005 is 6,300,000 gallons (Waikoloa Water's confidential Exhibit F and Exhibit G), which is reasonable and more representative of normal construction water sales for the test year.

The commission accepts as reasonable the Parties' agreed-upon test year customer count and water sales for the commercial, public authority, and multi-family customer classes.

The commission also finds reasonable: (1) the Consumer Advocate's forecast of test year water sales for the residential customer class of 384,026 TG; and (2) Waikoloa Water's estimated test year water sales of 6,300 TG for construction. The docket record shows that: (1) the number of Village residences will increase; and (2) Waikoloa Water's forecasted test year water sales for construction is based on a fifteen (15)-year average.

F.

Revenues from the Consumption Charge

Based on Section V(E), above, the amount of revenues generated from the consumption charge under present rates are:³³

<u>Customer Class</u>	<u>Water Sales</u>	<u>Revenues</u>
Residential:	384,026 TG	\$677,844
Commercial:	27,108 TG	\$47,848
Public Authority:	30,282 TG	\$53,451
Multi-Family:	170,115 TG	\$300,270
Construction:	<u>6,300 TG</u>	<u>\$11,120</u>
	617,831 TG	

Total Revenues, Consumption Charge: \$1,090,533

The commission finds reasonable the forecasted revenues generated from Waikoloa Water's consumption charge under present rates.

G.

Total Operating Revenues

The commission finds reasonable the test year estimates for operating revenues at present rates, as follows:

Total Revenues, Fixed Charges:	\$72,462
Total Revenues, Consumption Charge:	<u>\$1,090,533</u>
Total:	\$1,162,995

³³The commission uses the same multiplier of \$1.8651 per TG utilized by Waikoloa Water in its Application, but excludes the MMRA \$0.10 per TG surcharge, for a base multiplier of \$1.7651 per TG. See Exhibit 7-3 at 11 - 13 of Waikoloa Water's Application. The commission, like the Consumer Advocate, treats the monies Waikoloa Water receives from the MMRA as other funds. This treatment is consistent with the principle that the MMRA funds are owned by the ratepayers, not the utility.

These estimates for operating revenues at present rates exclude the monies Waikoloa Water receives from the MMRA,³⁴ which the commission treats and discusses separately in Section VII(C) of this Proposed Decision and Order.

VI.

Expenses

Waikoloa Water utilizes a three (3) per cent inflation factor in calculating its test year expenses for certain of its accounts. Waikoloa Water's inflation factor represents the United States Consumer Price Index ("CPI") of 2.956 per cent (composite) for the West Urban area - all items, from October 2003 to October 2004.

The Consumer Advocate recognizes that the commission has allowed utilities to apply a CPI factor in determining test year expenses for ratemaking purposes. Accordingly, it does not oppose Waikoloa Water's use of a three (3) per cent inflation factor. Nonetheless, the Consumer Advocate: (1) reserves its right to take a different position in future rate proceedings; and (2) suggests that, if a general inflation factor is used, it prefers using the Honolulu CPI, recognizing that there is no available CPI for each of the islands within the State.³⁵

³⁴See footnote 33, above.

³⁵For this proceeding, the Consumer Advocate notes that "the Honolulu CPI for the test year is around 3.3%, which is in line with the 3% used by Waikoloa Water to project the test year expenses." CA-T-2 at 20 (footnote and citation therein omitted).

The Consumer Advocate does not discuss or affirmatively object to Waikoloa Water's estimated expenses for chemicals, materials and supplies, contractual services, and depreciation. By contrast, it finds reasonable a *reduced* level of expenses for operating salaries and wages, purchased power, equipment rental, and G&A. In addition, it concurs with Waikoloa Water's methodology and tax rates used to calculate Waikoloa Water's revenue taxes for the test year.³⁶

The Parties' agree to or disagree on Waikoloa Water's test year expense amounts at present rates, as follows:

<u>Operating Expenses</u>	<u>Parties' Agreement</u>	<u>WHWC's Estimate</u>	<u>CA's Estimate</u>
Operating Salaries & Wages	\$51,626		
Purchased Power		\$717,002	\$698,108
Chemicals	\$2,581		
Materials & Supplies	\$30,666		
Contractual Supplies	\$21,644		
Equipment Rental		\$24,108	\$7,680
G&A*		\$307,180	\$269,194
Depreciation	\$12,958		
Taxes Other Than Income	Subject to calculation		
Income Taxes	0		

*G&A consists of fourteen (14) expense accounts, including: (1) G&A salaries and wages; (2) contractual services/legal; and (3) regulatory commission/rate case amortization. See Section VI(C), below.

At the outset, for purposes of this rate case, the commission accepts as reasonable the Parties' agreed-upon expense amounts for operating salaries and wages, chemicals, materials

³⁶In particular, for Waikoloa Water's test year, the Parties concur with using the: (1) public service excise tax rate of 5.885 per cent; and (2) public utility fee of 0.50 per cent.

and supplies, contractual services, depreciation, and income taxes.³⁷

A.

Purchased Power

The Consumer Advocate's estimated water sales is set forth in Section V(E), above. The Consumer Advocate: (1) disagrees with Waikoloa Water's use of a ten (10) per cent water loss factor; and instead (2) states that the correct, actual water loss percentage, as confirmed by Waikoloa Water, is 7.65 per cent. "Thus, at a maximum, the water loss percentage in [this] proceeding should be 7.65%, not 10% as Waikoloa Water proposes."³⁸

That said, the Consumer Advocate notes that: (1) the 7.65 per cent factor represents the average of the actual water loss measured at Waikoloa Water's Village and Resort meters; (2) the water loss percentage for the Village meter is significantly higher than the Resort meter, i.e., above the ten (10) per cent threshold; thus (3) "by averaging the water loss from both meters, the excessive water loss occurring at the Village meter is masked by the low water loss occurring at the Resort meter."³⁹

³⁷For operating salaries and wages, the commission corrects the Parties' inadvertent calculation error and increases the expense amount from \$51,626 to \$51,652.

³⁸CA-T-2 at 23.

³⁹CA-T-2 at 24.

The Consumer Advocate asserts that Waikoloa Water should investigate the actual causes of the high, unaccounted for water loss percentage for the Village water system, and take appropriate corrective action. The Consumer Advocate recommends capping at ten (10) per cent the water loss percentage for the Village, thereby resulting in a revised average water loss percentage of 6.73% for Waikoloa Water.

Based on the Consumer Advocate's estimated water sales and water loss percentage of 6.73 per cent, the Consumer Advocate recommends reducing Waikoloa Water's purchased power expense by \$5,666 (or .08 per cent), from \$703,773 to \$698,108. In the alternative, if the water loss percentage is increased to 7.65 per cent, the purchased power expense is \$704,125.

In response, Waikoloa Water notes that the Parties agree on the methodology for calculating purchased power expense,⁴⁰ but disagree on: (1) the amount of water sales;⁴¹ and (2) unaccounted for water.

For unaccounted water, Waikoloa Water remains steadfast that its use of the widely accepted ten (10) per cent water loss factor is: (1) consistent with the United States Environmental Protection Agency's *Water Use Efficiency Program* (Waikoloa Water's Exhibit C) and the commission's decision in Docket No. 96-0366, *In re Waikoloa Resort Util.*; and (2) reasonable and

⁴⁰See Appendix C-4 of Waikoloa Water's Application; CA-T-2 at 20 - 21 and Exhibit CA 201; and Waikoloa Water Exhibit B.

⁴¹The Parties' disagreement over the test year water sales for the residential and construction customers is discussed in Section V(E), above.

appropriate. If the water loss percentage is set at below reasonable levels, Waikoloa Water reasons that it will have no means of recovery whenever there is a water loss above average amounts. "While [it] may be able to recover [its] costs for plant repairs through the [MMRF], the power cost on the additional water needed to maintain service to the customers could not be recovered."⁴²

Applying Waikoloa Water's ten (10) per cent water loss factor, Waikoloa Water's latest estimate for power purchase expense is \$717,002 (Waikoloa Water's Exhibit B).

The Parties' methodology in calculating power purchase expense is appropriate. In this case, the commission adopts as reasonable Waikoloa Water's proposed ten (10) per cent water loss factor in calculating Waikoloa Water's test year purchase power expense. Accordingly, the commission finds reasonable the amount of \$713,065 for Waikoloa Water's test year power purchase expense.

Concomitantly, the commission concurs that: (1) the water loss percentage for the Village meter is significantly higher than the Resort meter; and (2) Waikoloa Water should investigate the actual causes of the high, unaccounted for water loss percentage for the Village water system, and take appropriate, corrective action.

⁴²Waikoloa Water's rebuttal statement, at 4.

B.

Equipment Rental

Waikoloa Water's equipment rental estimate consists of two (2) components: (1) equipment rental in which the Parties agree to a test year amount of \$7,680, which represents the rental of equipment owned by WHUC or WHSC; and (2) equipment lease to acquire a 1993 Caterpillar road grader.

1.

Rental from WHUC or WHSC

Waikoloa Water's five (5)-year average equipment rental expense, from 2000 to 2004, is \$3,203, and the docket record lacks any credible explanation for the increase between the five (5)-year average figure and the Parties' agreed to amount of \$7,680. Nonetheless, for purposes of this rate case, the commission accepts as reasonable the Parties' agreed-upon amount of \$7,680 for equipment rental.

2.

Equipment Lease

Meanwhile, Waikoloa Water expects to incur \$16,428 in test year leasing expense to acquire a 1993 Caterpillar road grader to replace the 1951 Caterpillar road grader that is no longer in service. The estimated total cost of the replacement grader is \$85,000. The expected term of the lease is five (5) years, resulting in a monthly expense of approximately

\$1,630, based on the leasing company's projected first quarter 2005 lease costs.

The Consumer Advocate notes that: (1) to date, no contract has been executed because the replacement grader has not been acquired; and (2) since Waikoloa Water will exercise its option to purchase the replacement grader at the expiration of the lease term, the lease is a financing transaction as opposed to an operating lease.

The Consumer Advocate, thus, recommends disallowing the \$16,428 in lease expense, asserting that the lease is not executed. "In addition, . . . the lease payments over the term of the lease should be capitalized and amortized over the useful life of the [replacement] grader."⁴³

In the alternative, if the lease is treated as an operating expense, the Consumer Advocate recommends limiting the lease expense to the actual months the replacement grader is leased in the test year, consistent with the average test year concept.

Waikoloa Water responds that: (1) the replacement grader is necessary to maintain its roads; and (2) its supporting documentation "outlines the type of equipment to be leased, the estimated cost to purchase such equipment and the cost of leasing the equipment."⁴⁴ Specifically:

. . . . [Waikoloa Water] included various lease terms under a \$1.00 buy-out option (financing) lease and a fair market value option (true) lease. The option used by [Waikoloa Water] for the test

⁴³CA-T-2 at 29 - 30.

⁴⁴Waikoloa Water's rebuttal statement, at 5.

year is the true lease and not the \$1.00 buy-out financing arrangement. At the end of the lease term, in order to obtain title to the grader, [Waikoloa Water] will be required to first pay the fair market value. Thus, contrary to the CA's assertion, [Waikoloa Water] would not acquire any ownership benefits such as depreciation expense or capital goods tax credits.⁴⁵

"Given the importance of road maintenance for the efficient operation of the wells and tanks," Waikoloa Water concludes that "it is reasonable to include the costs for leased equipment at . . . \$16,428."

Waikoloa Water's supporting documentation is set forth in its response to CA-IR-11. The first page consists of, at most, an invitation to make an offer, dated January 27, 2005, for a "1993 Cat 12G." The second page is a picture of a "12G" Caterpillar, and the third page purports to outline different proposed financing terms, dated October 26, 2004, for the first quarter of 2005.

The commission finds that Waikoloa Water has not met its burden of proving that it will incur the costs of the equipment rental in the test year. There is no evidence in the docket record of a signed lease agreement, or intent to enter into a lease agreement, with a description of the equipment, conditions, price, and term of the lease.⁴⁶ Accordingly, the commission disallows the \$16,428 in lease rental expense.

⁴⁵Id (underscore in original).

⁴⁶The commission also questions whether Waikoloa Water should bear the full cost of the lease expense when the road grader is used to access wells owned by Waikoloa Water and WHUC.

C.

General and Administrative

Waikoloa Water's G&A expenses are reflected in fourteen (14) accounts. The Consumer Advocate takes issue with Waikoloa Water's expense estimates for three (3) accounts: (1) G&A salaries and wages; (2) contractual services/legal; and (3) regulatory commission/rate case amortization.

1.

Salaries and Wages

Waikoloa Water's test year salaries and wages for operations and G&A, respectively, are based on WDC's allocation of the expected labor hours incurred to perform support services for Waikoloa Water, WHUC, and WHSC. The labor hours are multiplied by each employee's labor rate per hour to compute the total labor cost for each employee.

Waikoloa Water proposes test year expenses of \$59,370 for operating salaries and wages and \$190,007 for G&A salaries and wages, as part of its case-in-chief. The Consumer Advocate recommends: (1) reducing Waikoloa Water's operating salaries and wages expense by \$7,744, to \$51,626; and (2) reducing Waikoloa Water's G&A salaries and wage expense by \$20,931, to \$169,076. In rebuttal, Waikoloa Water: (1) accepts the Consumer Advocate's estimate of \$51,626 for Waikoloa Water's operating salaries and wages expense (Waikoloa Water's Exhibit A);⁴⁷ and (2) revises its

⁴⁷See Section VI, Expenses, above.

test year expense for G&A salaries and wages, from \$190,007 to \$180,405 (Waikoloa Water's Exhibit D).

The Consumer Advocate contends that Waikoloa Water, as part of its case-in-chief, proposes to include \$20,931 of WDC staff support to process this rate case, in addition to the \$169,076 allocated for general support services, for a total test year expense of \$190,007 for G&A salaries and wages. The Consumer Advocate recommends disallowing the \$20,931, reasoning that this amount represents an abnormal expense that is not expected to occur on an annual, recurring basis.

Waikoloa Water responds that, at a minimum, \$11,329 should be added to the Consumer Advocate's test year estimate for G&A salaries and wages, for a revised sum of \$180,405 (Waikoloa Water's Exhibit D), so that Waikoloa Water is able to recover all of its necessary and reasonable labor costs.⁴⁸ As Waikoloa Water explains:

Each year [Waikoloa Water's] labor budget allocates the labor costs to various accounts, one of which is "job costs." The "job cost" category reflects the expected rate case and other staff costs chargeable to [Waikoloa Water]. These costs are for capital improvement and several other ongoing projects, which would normally be capitalized as part of the cost of a fixed asset or recognized as a deferred charge and depreciated or amortized over an extended period of time.⁴⁹

The amount of "job cost" charged by WDC for 2005 is \$55,103.⁵⁰ Waikoloa Water states that: (1) its allocated share of

⁴⁸\$169,076 (CA's estimate) + \$11,329 (Waikoloa Water's latest adjustment) = \$180,405.

⁴⁹Waikoloa Water's rebuttal statement, at 6.

⁵⁰Id.

this amount is 20.56 per cent, or \$11,329; and (2) the \$11,329 amount represents its: (A) allocation of "job costs" that for ratemaking purposes are charged to G&A salaries and wages, and are not allowed in regulatory commission expense; and (B) such costs are *not* non-recurring labor charges that are unique to the test year, "as they are not related only to the rate case, but also include other charges for staff costs associated with other projects."⁵¹

Work performed by the utility's staff in a rate case, when it does arise, occurs as part of the staff's normal duties and responsibilities.⁵²

It appears that Waikoloa Water is in agreement with the Consumer Advocate in removing rate case related labor expense from G&A salaries and wages. However, the commission notes discrepancies with Waikoloa Water's treatment of "job cost" labor, as follows:

1. In Appendix D-3 of its Application, Waikoloa Water identifies \$20,931 as job costs for non-capital items ("staff time - rate case").

2. In response to CA-IR-16(a) as to why "Job Cost" and "Customer Accounts" are not attributable to WHUC, WHSC, or Waikoloa Water, Waikoloa Water explains:

Job Cost labor is generally capitalized as part of the cost of a project. Because the schedule in Appendix B-2 is a budget worksheet intended to estimate labor expense, the estimated job labor is

⁵¹Id.

⁵²Decision and Order No. 10993, filed on March 6, 1991, at 36 and 56, in Docket No. 6432, *In re Hawaii Elec. Light Co., Inc.* (1990 test year rate case).

omitted. The Customer Accounts labor allocation is labor allocated to jobs, performed for utility customers, for which the utility will be reimbursed by the customer.⁵³

3. In its rebuttal statement, Waikoloa Water explains:

. . . These [job costs] are not unique, non-recurring labor charges to the test year, as they are not related only to the rate case, but also include other charges for staff costs associated with other projects. For ratemaking purposes, such costs are not allowed in regulatory commission expense and are charged to G&A salaries. Thus the adjustment of \$20,931 is merely a portion of the \$55,103 in total job cost labor.⁵⁴

The commission questions how Waikoloa Water identifies, in Appendix D-3, \$20,931 as job costs for non-capital items (staff time - rate case), then later identifies \$20,931 as a portion of WDC's total for job costs labor, of which Waikoloa Water is allocated 20.56 per cent, or \$11,329. Regardless of the amount, it appears that Waikoloa Water is attempting to recover the cost of job costs labor twice: (1) first, as part of the

⁵³Waikoloa Water's response to CA-IR-16(a).

⁵⁴Waikoloa Water's rebuttal statement, at 6 (citation omitted).

Waikoloa Water further adds to the confusion in its discussion of the MMRA balance:

. . . While the CA correctly notes that the [MMRA] balance has not been used for the period from 2000 through 2004, and no charges have been applied directly against the account, [Waikoloa Water] has accumulated approximately \$510,351 in **job cost accounts** to be charged against the [MMRA] in the test year 2005 and early 2006. The charges that have been incurred and those costs projected to be required in the near future and summarized in [Waikoloa Water's] Exhibit H.

Id. at 12 (boldface added).

capital project costs that should instead be capitalized; and (2) second, in its revenue requirement.

The commission adopts the Consumer Advocate's adjustment and finds reasonable \$169,076 for G&A salaries and wages.

2.

Contractual Services/Legal

The Consumer Advocate recommends reducing Waikoloa Water's contractual services/legal expense by \$10,627, from \$12,670 to \$2,043. This amount of \$2,043, the Consumer Advocate reasons, reflects the normalized level of expenses incurred by Waikoloa Water for contractual services/legal over a five (5)-year period, as adjusted to include the inflationary factor. In rebuttal, Waikoloa Water accepts the Consumer Advocate's estimate of \$2,043 as the test year amount for contractual services/legal expense (Waikoloa Water's Exhibit D).

The commission finds reasonable the Parties' agreed-upon amount of \$2,403 for contractual services/legal expense.

3.

Regulatory Commission/Rate Case Amortization

Waikoloa Water's regulatory commission expense consists of three (3) phases: (1) Phase 1, preparation and filing, \$53,460; (2) Phase 2, discovery and settlement, \$39,940; and

(3) Phase 3, evidentiary hearing and post-hearing briefing, \$31,600. Accordingly, Waikoloa Water's test year regulatory commission expense in the amount of \$41,666 is based on a total cost of \$125,000, amortized over a three (3)-year period.

The Consumer Advocate recommends reducing Waikoloa Water's regulatory commission expense by: (1) using the actual Phase 1 costs incurred by Waikoloa Water, in lieu of Waikoloa Water's higher, estimated cost; and (2) removing the Phase 3 costs. The Consumer Advocate also recommends increasing the amortization period "to reflect the actual anticipated period over which the rates determined in [this] proceeding will be effective."⁵⁵

For the Phase 1 costs, the Consumer Advocate recommends reducing this amount by \$10,650, from \$53,460 to \$42,810, to reflect the actual costs incurred by Waikoloa Water in completing this task.

For the Phase 3 costs, the Consumer Advocate reasons that, for rate applications filed by water and wastewater utilities over the past fifteen (15) years or so, the applicants and Consumer Advocate have been able to resolve their differences, thereby all but eliminating the need for an evidentiary hearing. Moreover, any remaining differences are argued in written briefs in lieu of an evidentiary hearing. In addition, under Act 168, the right to an evidentiary hearing ensues only if the commission's Proposed Decision and Order is not accepted.

⁵⁵CA-T-2 at 40.

Under this scenario, the Consumer Advocate states that an evidentiary hearing is "highly unlikely." Thus, the costs associated with the evidentiary hearing and preparation of a post-hearing brief, in the amount of \$31,600, should be removed from Waikoloa Water's test year rate case expense and resulting amortization. The Consumer Advocate, in sum, recommends reducing Waikoloa Water's regulatory commission expense by \$42,250 (\$10,650 + \$31,600), resulting in an adjusted amount of \$82,750.

The Consumer Advocate, moreover, rejects as unpersuasive Waikoloa Water's three (3)-year amortization period. Instead, it recommends a nine (9)-year amortization period, consistent with the average of the chronological intervals between Waikoloa Water's past rate cases and its present Application. As the Consumer Advocate reasons, Waikoloa Water "does not demonstrate a reasonable possibility of any significant plant investment in the next three years requiring the filing of a new rate application."⁵⁶ Furthermore, the revenues received through the fixed monthly charge assessed on each new customer above those recognized in this proceeding should mitigate the need to file another rate case application within three (3) years. Accordingly, the Consumer Advocate's regulatory commission expense adjustment reflects a revised total rate case expense of \$82,750, amortized over 9 years."⁵⁷

⁵⁶CA-T-2 at 45.

⁵⁷CA-T-2 at 48.

In rebuttal, Waikoloa Water: (1) agrees to use the actual costs incurred for its Phase 1 costs, \$42,810; (2) revises the amount of its Phase 3 costs, from \$31,600 to \$24,800; and (3) remains firm that "three years is a realistic time for amortization purposes."⁵⁸ Nonetheless, if the commission is inclined to apply a longer amortization period, Waikoloa Water requests that the commission adopt an amortization period no more than five (5) years, consistent with previous commission decisions.⁵⁹ In any event, with a three (3)-year amortization period, Waikoloa Water now proposes a test year regulatory commission expense amount of \$35,850, based on a total cost of \$107,550, amortized over a three (3)-year period.⁶⁰

Waikoloa Water notes that its rate case has not been contentious, and it anticipates that an evidentiary hearing "will not be required."⁶¹ "Nonetheless, [Waikoloa Water] is entitled to hearings and briefing activities should they be needed to establish that its requested rates are reasonable to cover its expenses. Accordingly, [Waikoloa Water] should be allowed its [revised] projected costs of \$24,800 (\$20,000 for legal fees and

⁵⁸Waikoloa Water's rebuttal statement, at 9.

⁵⁹Waikoloa Water cites to Decision and Order No. 21312, filed on August 17, 2004, in Docket No. 03-0383, *In re Puhi Sewer & Water Co., Inc.*; and Decision and Order No. 20405, filed on August 29, 2003, in Docket No. 02-0392, *In re Mauna Lani STP, Inc.*

⁶⁰Waikoloa Water's rebuttal statement, Section II(D), at 7 - 10.

⁶¹Id. at 8.

\$4,800 for rate making consulting services) in regulatory commission expenses."⁶²

The commission reiterates that, 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 commission's proposed decision and order[.]" HRS § 269-16(f)(3).⁶³

"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 Waikoloa Water's complete Application, is a contested case hearing contemplated under HRS § 269-16(f)."⁶⁴

Consistent with the principle of expeditiously issuing this Proposed Decision and Order under Act 168, the commission disallows Waikoloa Water's Phase 3 costs of \$24,800 for an evidentiary hearing and post-hearing briefing. Concomitantly, the commission finds reasonable the Parties' agreed-upon amounts of \$42,810 and \$39,940 for the Phase 1 and 2 costs, respectively.⁶⁵

⁶²Id.

⁶³Order No. 21675, filed on March 7, 2005, at 3 - 4 (citing Order No. 21574, filed on January 28, 2005, at 6).

⁶⁴Order No. 21675, at 4.

⁶⁵While the commission disallows the Phase 3 costs, the commission accepts as reasonable the agreed-upon Phase 2 costs, which include settlement costs, though it appears that the Parties made no effort to pursue settlement. See commission's

The commission also adopts as reasonable Waikoloa Water's alternative, five (5)-year amortization period. Accordingly, the commission finds reasonable \$82,750 for regulatory commission expense,⁶⁶ amortized over a five (5)-year period, for a test year amount of \$16,550.

4.

G&A Total

Based on Section VI(C), above, the commission finds reasonable a total of \$270,734 for Waikoloa Water's test year G&A expense.

VII.

Rate Design

A.

Fixed Charges

The Consumer Advocate affirmatively does not object to the increases in the fixed monthly charges initially proposed by Waikoloa Water in its Application:⁶⁷

letter, dated May 17, 2005; and Waikoloa Water's response letter, dated May 20, 2005.

⁶⁶\$42,810 (Phase 1 costs) + \$39,940 (Phase 2 costs) = \$82,750.

⁶⁷Waikoloa Water is not proposing to increase its monthly water availability charge of \$2. Also, for the test year, there are no customers with an 8" meter.

Monthly Service Charge

<u>Meter Size</u>	<u>Proposed Charge</u>
5/8"	\$7.20
3/4"	\$7.20
1"	\$13.80
1-1/2"	\$24.20
2"	\$33
3"	\$66
4"	\$110
6"	\$220
8"	\$396

Monthly Private Fire Service Charge

<u>Meter Size</u>	<u>Proposed Charge</u>
3"	\$66
4"	\$110
6"	\$220
8"	\$396

Waikoloa Water's proposed increases in its service charge and private fire service charge, together with the revenues generated from its water availability charge, are designed to produce a total of approximately \$183,693 in revenues from Waikoloa Water's fixed charges.⁶⁸ Moreover, the Parties concur that, in principle, Waikoloa Water's fixed charges should sufficiently recover its fixed costs of its utility operations. The commission finds reasonable Waikoloa Water's proposed increases in its fixed charges, above.

⁶⁸\$141,573 (service charge revenues, proposed rates) + \$36,960 (private fire service charge revenues, proposed rates) + \$5,160 (water availability charge revenues, proposed rates) = \$183,693.

B.

Consumption Charge

Waikoloa Water's consumption charge under present rates is \$1.7651 per TG, which is the sum of Waikoloa Water's base rate (\$1.4234 per TG) plus the PCAF (\$0.3417 per TG). Based on Waikoloa Water's consumption revenues at approved rates, see Exhibit A, attached, Waikoloa Water is entitled to a base rate of \$1.62352 per TG, an increase of \$0.20 per TG.⁶⁹ The commission finds reasonable the new consumption base rate of \$1.62352 per TG.

C.

Major Maintenance and Reserve Account

For purposes of this rate case, Waikoloa Water has a zero (0) rate base and is not seeking to have its new rates set using a rate of return methodology. Thus, Waikoloa Water seeks to continue the MMRA established by the commission in Decision and Order No. 5667, filed on May 23, 1979.

Waikoloa Water's MMRA consists of the MMRF and the OCF.

As the commission stated in Decision and Order No. 5667:

The major maintenance and repair fund shall be established as a separate fund and to be used for no other purposes other than the major maintenance and repair program. . . .

. . . the Commission firmly believes, that a utility operation must have the financial capability to meet any contingencies or emergencies in order to meet its duties to the public. . . . [The] operating contingency amount

⁶⁹\$1,003,061 (total consumption revenues, approved rates) divided by 617,831 TG (total test year water sales) = \$1.62352 per TG. Under approved rates, the PCAF is set to zero (0).

granted herein provides for any contingencies such as electric rate increases, emergencies, or other inflationary costs. The . . . contingency fund is clearly necessary since the test year expenses cover only the current operating expenses.⁷⁰

In Waikoloa Water's most recent 1998 - 1999 test year rate case, Docket No. 98-0060, the commission authorized the continued collection of the MMRA, at \$0.03 per TG for the MMRF and \$0.07 per TG for the OCF, respectively. The commission noted:

. . . [Waikoloa Water] will be allowed to continue the net operating reserve account, which will include a total allowance of \$0.10 per TG. As in Decision and Order No. 5667, the net operating reserve account will be the property of [Waikoloa Water's] consumers, and will be subject to **review, modification, and termination by the commission at any time.**⁷¹

The Consumer Advocate's preference is to terminate the MMRA, asserting that:

1. Waikoloa Water "will have a harder time establishing a rate base if it is allowed to continue collecting, from ratepayers, funds which are used to pay for items that would generally be classified as plant."⁷²

2. The MMRA had a balance of \$733,301 at the end of December 31, 2004. "This amount should be more than sufficient to pay for unexpected costs for major maintenance activities that may arise. For the past five years (i.e., 2000 through 2004), [Waikoloa Water] has not used the proceeds and simply added to

⁷⁰Decision and Order No. 5667 at 26 - 27.

⁷¹Decision and Order No. 17263, filed on September 30, 1999, at 19 - 20, in Docket No. 98-0060 (boldface added).

⁷²CA-T-1 at 14.

the balance. Thus, it may no longer be necessary to continue collecting amounts to fund the reserve."⁷³

3. Recent developments in Waikoloa Water's service territory should result in the addition of new customers outside of the test year.

If the commission is not inclined to terminate the MMRA, the Consumer Advocate recommends reducing the MMRA charge to \$0.0782 per TG. The Consumer Advocate removes Waikoloa Water's estimated purchase power expense in calculating the proposed MMRA charge, "because [Waikoloa Water] has a provision to offset the impact of any changes in the electricity rates."⁷⁴

Waikoloa Water responds that the MMRA balance is actually \$584,469, not \$733,301.⁷⁵ "While the CA correctly notes that the [MMRA] balance has not been used for the period from 2000 through 2004, and no charges have been applied directly against the account, [Waikoloa Water] has accumulated approximately \$510,351 in job cost accounts to be charged against the [MMRA] in the test year 2005 and early 2006. The charges that have been incurred and those costs projected to be required in the near future are summarized in [its] Exhibit H."⁷⁶

⁷³Id.

⁷⁴Id. at 13.

⁷⁵See Waikoloa Water's rebuttal statement, Section III, at 12 - 13.

⁷⁶Id. at 12. Waikoloa Water's Exhibit H consists of a chart entitled "Major Maintenance Reserve Account, Pending Charges."

"[G]iven the imminent demands to be made on the existing [MMRA] reserve and to allow rebuilding of the reserve for future needs," Waikoloa Water emphasizes that the continuation of the MMRA, at the amount of \$0.0882 per TG (Waikoloa Water's Exhibit A), is: (1) necessary and critical to the water utility's operations; and (2) consistent with past commission decisions.⁷⁷

Waikoloa Water anticipates filing its next rate case application utilizing the return on rate base methodology, consistent with HRS § 269-16(b). While the Consumer Advocate expresses concern with the continued use of Waikoloa Water's MMRA, it proposes no viable, alternative methodology, and offers no recommendation on what to do with the MMRA's accumulated balance, the amount of which is in dispute.⁷⁸

The commission, in this instance: (1) authorizes the continued use of the MMRA; and (2) uses the methodology agreed-upon by the Parties in calculating the rates for the MMRF and OCF, respectively, which is the methodology established by the commission in Decision and Order No. 5667.⁷⁹ Accordingly, the commission adopts as reasonable the amounts of \$0.01691 per TG and \$0.06231 per TG for the MMRF and OCF, respectively, for a

⁷⁷Waikoloa Water's rebuttal statement, at 13.

⁷⁸Contra Docket No. 00-0440, *Waikoloa Sanitary Sewer Co., Inc, dba West Hawaii Sewer Co.*

⁷⁹See CA-T-1 at 11 - 13 and Exhibit CA 101; and Waikoloa Water Exhibit A.

total amount of \$0.07922 per TG for the MMRA surcharge. See Exhibit B, attached.

D.

MMRA Summary

Waikoloa Water's approved fixed and consumption charges should allow Waikoloa Water to "break even" by recovering its normalized expenses incurred in its wastewater utility operations. See Exhibit A, attached. The Parties concur that, in principle, Waikoloa Water's fixed charges should be sufficient to recover its fixed costs.

The continued use of the MMRA, at a reduced amount of \$0.07922 per TG, is for the purposes set forth in Decision and Order No. 5667, as described in Section VII(C), above. See also Exhibit B, attached. Although the commission authorizes the continuance of the MMRA, the commission expects Waikoloa Water to file its next rate case application using the return on rate base methodology, as represented by Waikoloa Water. See HRS § 269-16(b). Lastly, if the MMRA is currently not in an interest bearing account, Waikoloa Water shall transfer the MMRA to an interest bearing account for the benefit of ratepayers.

VIII.

Waikoloa Water's Tariff Rules

A.

Tariff Revisions

Waikoloa Water agrees to incorporate certain changes to its tariff rules, in response to the Consumer Advocate's recommendations:⁸⁰

1. Amend Rule III(4), governing Waikoloa Water's interruption of its water supply, by making it clear that Waikoloa Water will shut off water without notice only for reasons related to the operation of the water system:

The Company reserves the right at any and all times to shut off water from the mains without notice for the purpose of making repairs, extensions, alterations, or for other reasons[.] relating to the operations of the water system. Customers depending upon a continuous supply of water shall provide emergency water storage and any check valves or other devices necessary for the protection of plumbing or fixtures against failure of the pressure or supply of water in the Company's mains. Repairs or improvements will be prosecuted as rapidly as practicable and insofar as practicable, at such times as will cause the least inconvenience to the customer. Except in the case of emergency repairs, the Company shall use best efforts to give the Consumer at least 24 hours notice before shutting off service.

2. Amend Rule V(14), governing service connections, to reflect the current name of the agency responsible for the geodetic function:

When required by the Company, contours or elevations shall be furnished by the applicant, based upon [U.S.C.G.S.] National Geodetic Survey of County of Hawaii data.

⁸⁰Proposed deletions are bracketed, while proposed additions are underscored.

3. For Rule VI, relating to customer bills, adding a paragraph that describes the handling of a dishonored check and the consequence thereof:

Any bill for which a bank check written in payment has been dishonored will be due and payable immediately upon written notice to the customer by the Company of the check's dishonorment. Within 5 days of issuance of written notice, the full amount of the bill must be paid in cash at the Company's office, along with a \$10.00 service charge. Should the customer fail to make payment on the dishonored check, the Company may discontinue service under Rule VI.3, with the sixty-day period running from the date that the original bill was mailed or presented to the customer.

4. Amend Rule VI(3), relating to customer bills, to incorporate the methods of bill payment:

. . . Payment shall be made in cash at the office of the Company, or by personal check, cashier's check, or money order, in person or by U.S. mail, at the office of the Company or, at the Company's option, to duly authorized collectors of the Company. . . .

5. For Rule VIII(2), relating to damage to Waikoloa Water's facilities, adding a sentence that clarifies the customer's responsibility to report any damage to Waikoloa Water's facilities:

Any damage to Company facilities shall be reported as soon as possible.

6. For Rule XII(1), governing electrical grounding, adding a sub-paragraph (c) to clarify the customer's responsibilities in the event of a grounding fault:

Whenever grounding fault occurs and causes electrical current to flow into the pipeline system, the customer shall have the correction made immediately and shall pay for any damages attributable to such grounding fault. Corrections not made will be subject to discontinuance of water service.

The agreed-upon revisions are consistent with prior commission rulings, explain certain terms, and clarify Waikoloa

Water's existing tariff provisions. The commission finds reasonable the Parties' agreed-upon revisions to Waikoloa Water's tariff rules.

B.

Power Cost Adjustment Charge

Waikoloa Water proposes to modify the existing Automatic Power Cost Adjustment Charge ("PCAC") to reflect its test year base for kilowatt hour cost of electricity (\$0.1809) and efficiency factor (5.80 kWh/1,000 gallons). With these changes, Waikoloa Water seeks to utilize the following revised formula for the PCAF:

$$\text{PCAF} = (\text{Actual Cost/kWh} - \$0.1809 \text{ kWh}) \times (5.80 \text{ kWh/1,000 gallons}) \times (1.06385)$$

Where PCAF is the cost per 1,000 gallons of water pumped.

The factor of 1.06385 is derived from the addition of the public service excise tax (5.885 per cent) and the public utility commission fee (0.50 per cent).

The commission finds reasonable Waikoloa Water's PCAC, as modified.

C.

Contribution-in-Aid-of-Construction Provision

Waikoloa Water proposes to add a CIAC provision to its rate schedule (Waikoloa Water's Exhibits 3 and 4) that reads:

CONTRIBUTION IN AID OF CONSTRUCTION

As a condition to receive water service, the consumer will be required to pay a one-time contribution in aid of construction to the Company at a rate of \$4.62 per gallon of estimated average daily water use, usage or demand based on a full-time occupancy. One half of the amount of the contribution in aid of construction must be

paid within 90 days after the consumer has been notified by the Company that the Company is committed to serve the consumer, and the balance must be paid in full at the time the physical connection is made. This contribution in aid of construction is in addition to the connection charge provided for in paragraph 2 of Rule VI of Section A, GENERAL WATER SERVICE RULES AND REGULATIONS.

Waikoloa Water does not appear to explain or discuss the proposed addition in any of its filings, and the purpose of the proposed addition is unclear. Moreover, the proposed addition: (1) refers to a non-existent tariff Rule VI(A), paragraph 2; and (2) its introductory language duplicates the language of Waikoloa Water's tariff Rule XX, governing CIAC fees.⁸¹ In addition, pursuant to Waikoloa Water's tariff Rule V, prospective customers are already subject to a service deposit and service connection deposit.

The commission concludes that Waikoloa Water has not met its burden of proving the justness and reasonableness of its proposed CIAC addition. Accordingly, Waikoloa Water's new rate schedule shall not include the proposed CIAC addition.

⁸¹Waikoloa Water's Rule XX, paragraph 1, reads:

As a condition of receiving service or substantially increasing water consumption to new or substantially modified facilities, developer and commercial applicants shall be required to pay a non-refundable contribution in aid of construction to the Company. (boldface added)

IX.

Ultimate Findings and Conclusions

The commission finds and concludes:

1. The operating revenues and expenses for the test year, as set forth in Exhibit A, attached, are reasonable.

2. Waikoloa Water is entitled to an increase in revenues of \$23,759, or 2.04 per cent over revenues at present rates.

3. The continuance of the MMRA in this case, which consists of the MMRF and the OCF, is reasonable. The MMRA will include a total allowance of \$0.07922 per TG, comprised of: (A) \$0.01691 per TG for the MMRF; and (B) \$0.06231 per TG for the OCF. See Exhibit B, attached.

4. An increase in the base rate of Waikoloa Water's consumption charge, from \$1.4234 per TG to \$1.62352 per TG, is reasonable.

5. The Parties' agreed-upon tariff revisions to Rules III(4), V(14), VI, VI(3), VIII(2), and XII(1), as set forth in Section VIII(A), above, are reasonable.

6. Waikoloa Water's PCAC, as modified and set forth in Section VIII(B), above, is reasonable.

7. Waikoloa Water's CIAC addition, as proposed in its rate schedule, is rejected. See Section VIII(C), above.

X.

Commission's Observations

In the commission's view, Waikoloa Water's next rate case application should include: (1) a rate structure that promotes water conservation; (2) a review of the current cost allocation method between Waikoloa Water and WHUC, including the allocation of maintenance and repair costs; (3) a review of the ratio of kWh used, to gallons of water pumped; and (4) a review of the water sharing agreement, including the allocation of water loss between Waikoloa Water and WHUC. With respect to Items No. 2 and No. 4, above: (1) the commission reiterates its concern with the high, unaccounted for water loss percentage for the Village water system; and (2) Waikoloa Water must investigate and take appropriate, corrective action.

XI.

Acceptance or Non-Acceptance

Consistent with HRS § 269-16(f)(3), by July 5, 2005, each of the Parties shall notify the commission as to whether it:⁸²

1. Accepts, *in toto*, the Proposed Decision and Order. If the Parties accept the Proposed Decision and Order, they "shall not be entitled to a contested case hearing, and [HRS] section 269-15.5 shall not apply." HRS § 269-16(f)(3).

⁸²This deadline date is consistent with the deadline to move for reconsideration of a commission decision or order. See HAR §§ 6-61-21(e)(two (2) days added to the prescribed period for service by mail), 6-61-22 (computation of time), and 6-61-137 (ten (10) day deadline, motion for reconsideration).

2. Does not accept, in whole or in part, the Proposed Decision and Order. If so, said Party shall give notice of its objection or non-acceptance and set forth the basis for its objection or non-acceptance. Id. Moreover, the Party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record, i.e., the materials available to the commission at the time of its issuance of the Proposed Decision and Order.

Any Party that does not accept the Proposed Decision and Order "shall be entitled to a contested case hearing; provided that the [P]arties to the proceeding may waive the contested case hearing." Id. The commission shall make every effort to complete its deliberations and issue its Decision and Order by September 30, 2005. Id.

The underlying purpose of Act 168 is to expedite the ratemaking process for public utilities with annual gross revenues of less than two (2) million dollars. Consistent thereto, the commission has completed its review and timely issues this Proposed Decision and Order. Nonetheless, the commission makes it clear that if it is required to issue a Decision and Order due to the non-acceptance of the Proposed Decision and Order by one (1) or both of the Parties, the commission is free to review anew the entire docket and all issues therein, including the Parties' areas of agreement.

XII.

Orders

THE COMMISSION ORDERS:

1. Waikoloa Water may increase its rates to produce a total annual revenue increase of \$23,759, or 2.04 per cent, as shown on Exhibit A, attached, representing an increase in Waikoloa Water's revenue requirement to \$1,186,754.

2. Waikoloa Water shall: (A) continue to maintain a MMRA; and (B) include in its annual financial report filed with the commission, supplemental schedules reporting on the monies received from the MMRA surcharge. A total allowance of \$0.07922 per TG is authorized for the MMRA. The MMRA is subject to review, modification, and termination by the commission at any time. In addition, if the MMRA is currently not in an interest bearing account, Waikoloa Water shall transfer the MMRA to an interest bearing account for the benefit of ratepayers.

3. No later than July 15, 2005, Waikoloa Water shall file its revised tariff sheets and rate schedules for the commission's review and approval, which implement the tariff changes and increases in rates and charges authorized by this Proposed Decision and Order, with copies served upon the Consumer Advocate. Waikoloa Water's tariff changes and increases in its rates and charges shall take effect upon the commission's review and approval of said filing.

4. Waikoloa Water shall investigate the actual causes of the water loss for the Village water system, and take appropriate, corrective action. Unless ordered otherwise, by

December 30, 2005, Waikoloa Water shall file with the commission its report that: (A) identifies the actual causes of the water loss for the Village water system; and (B) the appropriate, corrective action taken by Waikoloa Water. Two (2) copies of Waikoloa Water's report shall be served upon the Consumer Advocate.

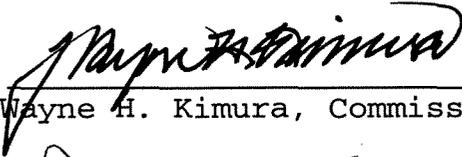
5 By July 5, 2005, each of the Parties shall notify the commission as to whether it accepts, *in toto*, or does not accept, in whole or in part, this Proposed Decision and Order, consistent with Section XI, above. A Party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record.

DONE at Honolulu, Hawaii

JUN 22 2005

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

04-0373.sl

**Waikoloa Water Company, Inc.
 dba West Hawaii Water Company
 Revenue Requirements
 2005 Test Year**

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Approved Rates</u>
Consumption Revenues	1,090,533	(87,472)	1,003,061
Fixed Charge Revenues	72,462	111,231	183,693
Total Revenues	<u>1,162,995</u>	<u>23,759</u>	<u>1,186,754</u>
Salaries and Wages	51,652		51,652
Purchased Power	713,065		713,065
Chemicals	2,581		2,581
Materials & Supplies	30,666		30,666
Contractual Services	21,644		21,644
Rental of Equipment	7,680		7,680
Administrative and General Expense	270,734		270,734
Total O&M Expenses	<u>1,098,022</u>		<u>1,098,022</u>
Revenue Taxes	74,257	1,517	75,774
Depreciation	12,958		12,958
Income Taxes	-		-
Total Operating Expenses	<u>1,185,237</u>	<u>1,517</u>	<u>1,186,754</u>
Operating Income	<u>(22,242)</u>	<u>22,242</u>	<u>0</u>
Net Operating Reserve Account	<u>61,783</u>		<u>48,943</u>

**Waikoloa Water Company, Inc.
dba West Hawaii Water Company
Net Operating Reserve Account
2005 Test Year**

Major Maintenance & Repair Fund ("MMRF")

MMRF	\$	10,447.00	
Total Water Sales		617,831	TG
MMRF Rate			<u>\$ 0.01691 /TG</u>

Operating Contingency Fund ("OCF")

Total O&M Expenses	\$	1,098,022	
Less: Purchased Power Expense	\$	713,065	
Subtotal	\$	384,957	
Reserve Factor		10.00%	
Operating Contingency Reserve	\$	38,496	
Total Water Sales		617,831	TG
OCF Rate			<u>\$ 0.06231 /TG</u>
Net Operating Reserve Account Rate			<u>\$ 0.07922 /TG</u>

CERTIFICATE OF SERVICE

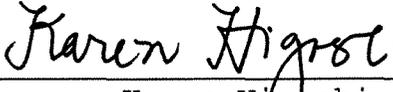
I hereby certify that I have this date served a copy of the foregoing Proposed Decision and Order No. 21885 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Counsel for WEST HAWAII WATER COMPANY



Karen Higashi

DATED: JUN 22 2005