

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MANELE WATER RESOURCES, LLC)
For a Certificate of Public)
Convenience and Necessity Pursuant)
to Section 269-7.5 to Provide)
Service in Manele-Hulopoe, Lana'i;)
and for Approval of Rules,)
Regulations, and Rates.)

DOCKET NO. 2006-0166

ORDER NO. 22859

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

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RECEIVED

Filed Sept. 15, 2006
At 12 o'clock P.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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Regulations, and Rates.)
_____)

Docket No. 2006-0166

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ORDER

By this Order, the commission waives the requirements for MANELE WATER RESOURCES, LLC ("Applicant") to: (1) submit an audited balance sheet as of the end of the last calendar year under Hawaii Administrative Rules ("HAR") § 6-61-75(b)(1); (2) submit an income statement from the close of the last audited balance sheet under HAR § 6-61-75(b)(2); and (3) state the total increase in its proposed rates in terms of a percent, as required under HAR § 6-61-88(2), in connection with its Application filed on June 28, 2006.¹ The commission further finds that the Application, as supplemented by Applicant on August 7, 2006,² is

¹See Application, Exhibits A - L, Verification, and Certificate of Service, filed on June 28, 2006 ("Application").

²See Supplement to Application, Verification, and Certificate of Service, filed on August 7, 2006 ("Supplement"). Applicant served copies of the Application and Supplement on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), an *ex officio* party to this docket pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62. As discussed further herein, the commission deems the Application and the Supplement, *in toto*, as

complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88. Thus, the filing date of Applicant's completed Application, as supplemented, is August 7, 2006.

I.

Background

On June 28, 2006, Applicant filed its Application for a Certificate of Public Convenience and Necessity to provide sewer services in the area of Manele-Hulopoe on the island of Lana'i, and for approval of its rules, regulations, and rates.

By letter dated July 27, 2006, the commission informed Applicant and the Consumer Advocate (jointly, the "Parties") that it would be treating the Application as an application for a certificate of public convenience and necessity under HRS § 269-7.5, and as an application for a general rate increase under HRS § 269-16(f).

On August 1, 2006, the Consumer Advocate filed a Statement of Position Regarding Completeness of Application ("Statement of Position"), wherein the Consumer Advocate noted certain deficiencies in the Application. The Consumer Advocate recommended that the commission find the Application to be incomplete and order Applicant to address the noted deficiencies.

By letter dated August 4, 2006, the Parties informed the commission that they had discussed the issues raised in the

constituting Applicant's completed Application before the commission.

Consumer Advocate's Statement of Position and resolved them.³ Specifically, the Parties agreed that Applicant would file a supplement to the Application to address the points raised in the Statement of Position. The Parties also informed the commission that they agreed to waive a hearing under HRS § 269-16(d)⁴ on the Consumer Advocate's objections to the Application.

On August 7, 2006, Applicant filed its Supplement to the Application, wherein Applicant: (1) provided a statement of the authorization or relief being sought by the Application, pursuant to HAR § 6-61-74(1), given that the case will be treated, in part, as a request for a general rate increase; (2) requested a waiver of the requirement for an audited balance sheet under HAR § 6-61-75(b)(1); (3) requested a waiver of the requirement to file an income statement from the close of its last audited balance sheet under HAR § 6-61-75(b)(2); (4) included a statement regarding its current effective rates that are proposed to be changed; and (5) requested a waiver of the requirement under HAR § 6-61-88(2) that the total increase in its proposed rates be expressed in terms of a percent.

On August 9, 2006, the Consumer Advocate filed a Supplemental Statement of Position Regarding the Completeness of Application. The Consumer Advocate stated that the deficiencies raised in the Consumer Advocate's initial Statement of Position

³See Letter dated and filed August 4, 2006, from Craig I. Nakanishi and Shah J. Bento to the commission.

⁴HRS § 269-16(d) provides that, when the Consumer Advocate objects to the sufficiency of an application filed under HRS § 269-16, the commission shall hear and determine such objections within twenty-one (21) days after the objections are filed.

had been addressed, and that it did not oppose the waiver requests made by Applicant in its Supplement to the Application.⁵

II.

Discussion

A.

Applicant's Waiver Requests

HAR § 6-61-75(b) states, in relevant part:

(b) The financial statement submitted pursuant to subsection (a) shall be accompanied by:

(1) An audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year;

(2) An income statement covering the period from the close of the last audited balance sheet up to the date of the latest available balance sheet attached to the application;

HAR § 6-61-75(b) (1) and (2).

In addition, HAR § 6-61-88(2) provides, in relevant part:

For an application by a public utility with annual gross revenues from its public utility business of less than \$2,000,000 for a general rate increase or to alter any classification, contract, practice, or rule as to result in a general rate increase to be considered a completed application under

⁵With respect to Applicant's requests for a waiver to file unaudited financial information, the Consumer Advocate did not object to the requests on the condition that Applicant make available for review all documentation supporting Applicant's financial statements, including all books and records of Applicant and its parent company.

section 269-16, HRS, the application, in addition to meeting the requirements of section 6-61-86, must contain the following:

- (2) The total increase requested, expressed in terms of dollars and per cent. If different classes of service are affected, the increase requested shall be expressed in both dollars and by percentage for each class;

HAR § 6-61-88(2).

The commission, however, may modify the requirements of HAR §§ 6-61-75(b)(1) and (2) and HAR § 6-61-88(2) if the requirements would "impose a financial hardship on the applicant or be unjust or unreasonable." HAR § 6-61-92. Moreover, HRS § 269-16(f) authorizes the commission to "amend its rules and procedures which will provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers." HRS § 269-16(f).

Here, Applicant is a public utility with annual gross revenues of less than two million dollars (\$2,000,000). As to Applicant's requests for waivers under HAR §§ 6-61-75(b)(1) and (2) to submit unaudited financial information, Applicant represents that it was organized on June 13, 2006, and was not in existence at the end of the last calendar year (2005). Applicant is therefore newly organized and capitalized, and no audited balance sheet for the last calendar year is available. Applicant further contends that, as a small utility with annual revenues of less than \$2,000,000, "[p]reparation of an audited financial report for the Application would unjustly impose an

additional financial burden on a small utility and unnecessarily delay the filing."⁶ In lieu of filing audited financial information, Applicant has filed a *pro forma* income statement and a *pro forma* balance sheet with the Application as Exhibits G and H, respectively.

As to Applicant's request for a waiver under HAR § 6-61-88(2), Applicant correctly notes that a percentage increase can only be derived mathematically from an existing rate greater than zero (\$0.00). Since Applicant is currently providing sewer services free of charge, any percentage multiplied by its current effective rate (\$0.00) will be zero (\$0.00).

Based upon the evidence and arguments presented by Applicant, the commission finds that application of the requirements in HAR §§ 6-61-75(b)(1) and (2), and HAR § 6-61-88(2) would be unjust and unreasonable in this case. Furthermore, because Applicant is a newly organized, small utility with annual revenues of less than \$2,000,000, the commission finds that requiring Applicant to comply with HAR §§ 6-61-75(b)(1) and (2) would impose a financial hardship on Applicant.

Accordingly, the commission finds good cause to: (1) waive the requirements for audited financial information under HAR §§ 6-61-75(b)(1) and (2), subject to the condition that Applicant make available for review all documentation in support of its financial statements, including all books and records of

⁶Supplement, at 6.

Applicant and its parent company; and (2) waive the requirement in HAR § 6-61-88(2) that Applicant express the total increase in its proposed rates in terms of a percent.

B.

Applicant's Completed Application

Pursuant to the Consumer Advocate's Supplemental Statement of Position, the Parties have resolved the concerns initially raised by the Consumer Advocate regarding the completeness of the Application.⁷ The commission also finds that the Application, as supplemented, appears consistent with HAR §§ 6-61-86 and 6-61-88, governing the completeness of rate case applications.⁸ Thus, the filing date of Applicant's completed Application, as supplemented, is August 7, 2006.⁹

III.

Orders

THE COMMISSION ORDERS:

1. Applicant's requests to waive the requirements of HAR §§ 6-61-75(b)(1) and (2), are granted. Applicant is authorized to submit unaudited financial information, subject to the condition that Applicant make available for review all

⁷See also Letter dated and filed August 4, 2006, from Craig I. Nakanishi and Shah J. Bento to the commission.

⁸See also HRS § 269-16(d) and (f)(3).

⁹See, e.g., In re Kaupulehu Water Company, Docket No. 05-0124, Order No. 21906, filed on July 1, 2005.

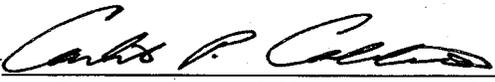
documentation in support of its financial statements, including all books and records of Applicant and its parent company.

2. Applicant's request to waive the requirement of HAR § 6-61-88(2) is granted; Applicant need not express the total increase in its proposed rates in terms of a percent.

3. The filing date of Applicant's completed Application, as supplemented, is August 7, 2006.

DONE at Honolulu, Hawaii SEP 15 2006

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

2006-0166.eh

CERTIFICATE OF SERVICE

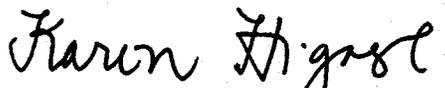
I hereby certify that I have this date served a copy of the foregoing Order No. 22859 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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ACTING EXECUTIVE DIRECTOR
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DATED: SEP 15 2006