

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
KRWC CORPORATION, dba KOHALA RANCH)
WATER COMPANY)
)
For Review and Approval of Rate)
Increases and Revised Rate)
Schedules.)
_____)

DOCKET NO. 05-0334

INTERIM DECISION AND ORDER NO. 23013

Filed Nov. 3, 2006
At 1 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

2006 NOV -6 A 9:45

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

§ 269-16.¹ KRWC requested a general rate increase of approximately \$776,079, or approximately 96.5%, over total revenues at present rates. The requested increase was based on an estimated total revenue requirement of \$1,580,500 for the 2006 calendar test year. According to KRWC, it has operated at a net loss for the last ten (10) years. For the calendar year 2004 and the nine (9)-month period, which ended on September 30, 2005, KRWC stated that it generated net losses of (\$390,849) and (\$314,910), respectively.

On March 8, 2006, the commission held a public hearing, pursuant to HRS § 269-16(f)(2), at the Waimea Civic Center, 67-5189 Kamamalu Street, Kamuela, Hawaii, to take public comments on KRWC's Application ("Public Hearing").

B.

Intervention

Following the Public Hearing, within the time frame specified by HAR § 6-61-57(1),² motions to intervene were filed by

¹Application; Exhibits KRWC 1 through KRWC 10; Exhibits KRWC-T-100 and KRWC-T-200; Workpapers; Verification; and Certificate of Service, filed on January 5, 2006 (collectively, the "Application").

KRWC served its Application on the Consumer Advocate, an ex officio party to this proceeding, pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

By Order No. 22236, filed on January 24, 2006, the commission approved KRWC's requests to submit unaudited financial information in lieu of an audited balance sheet and to utilize a 2006 calendar test year in connection with its application for general rate increase.

²Pursuant to HAR § 6-61-57(1), a timely motion to intervene in this docket must have been filed "not later than ten days

Carolyn Pomeroy on March 15, 2006, Kohala By the Sea Association ("KBTS") on March 17, 2006, Andrew Czajkowski on March 17, 2006, and Melanie Biddle on March 20, 2006. By Order No. 22454, the commission denied the motions to intervene filed by KBTS, Carolyn Pomeroy, Andrew Czajkowski, and Melanie Biddle, and granted KBTS participation without intervention, limited to the filing of written testimonies relating to the issue of the "Firewise" safety program.³ On May 19, 2006, KBTS filed motions for reconsideration or clarification of Order No. 22454 and for stay, arguing that full intervention status should have been granted to KBTS. KBTS's motion for reconsideration was denied and its motion for stay dismissed as moot by Order No. 22530, filed on June 13, 2006.⁴

after the last public hearing held pursuant to the published notice of the hearing," i.e., by March 20, 2006.

³The Consumer Advocate and KRWC are collectively referred to as the "Parties" and KBTS is referred to as the "Participant".

The commission further clarified that KBTS' participation was not "permit[ting] a person to intervene" within the meaning of HRS § 269-16(f)(3), and would not extend the commission's deadline from six months to nine months, as required under HRS § 269-16(f)(3). Order No. 22454 at 14.

⁴On September 29, 2006, Palila Growers LLC filed a Motion for Enlargement of Time to Intervene and Motion to Intervene of Palila Growers, LLC in which it argued that "KRWC, however well intentioned or unwittingly, lulled [Palila] into resting on its right to timely move for intervention." By Order No. 22983 filed on October 27, 2006, the commission denied Palila's motion for enlargement of time and dismissed its motion to intervene as moot.

C.

Regulatory Schedule

By Stipulated Procedural Order No. 22353, filed on March 24, 2006, the commission approved the regulatory schedule for this proceeding. The schedule provided for submission of information requests ("IRs"), responses to IRs, submission of supplemental IRs and responses to the supplemental IRs. In addition, it provided for the submission of direct and rebuttal testimonies.

By letter dated May 31, 2006, the Parties requested to amend the regulatory schedule that was approved by Order No. 22353, filed on March 24, 2006, to provide the Consumer Advocate with additional time to file its direct testimonies.⁵ The commission approved the Parties' request to extend the deadline and determined that the Parties' failure to strictly comply with the procedural schedule extended the deadline by which the commission must render a decision on KRWC's Application from six months to nine months.⁶

On June 30, 2006, the Consumer Advocate filed its direct testimonies, exhibits, and workpapers ("Direct Testimonies") setting forth its position on KRWC's Application. In its Direct Testimonies, the Consumer Advocate stated that it completed its analysis of the revenue requirement to allow the commission to determine the amount of increase to which KRWC is

⁵See Letter from Cheryl S. Kikuta, Utilities Administrator, Consumer Advocate (May 31, 2006).

⁶See Order No. 22534, filed on June 15, 2006, at 5.

probably entitled.⁷ The Consumer Advocate further stated that it intended to supplement its testimony for rate design after it has the opportunity to discuss the matter with KRWC.

D.

Stipulated Interim Relief

Since the filing of the Consumer Advocate's Direct Testimonies, the Parties conferred and reached agreement, in principle, on KRWC's overall revenue requirements and rate structure, for the purpose of the commission granting interim relief only. The Parties submitted their Stipulated Interim Relief Letter in Lieu of Evidentiary Hearing on September 6, 2006, as amended on September 14, 2006 ("Stipulated Interim Relief Letter").

In the Stipulated Interim Relief Letter, the Parties agreed that "KRWC is probably entitled to an increase in its rates to the extent provided herein," and that "without interim relief in this proceeding, KRWC may be denied an opportunity to earn a fair return on its rate base."⁸ As a result, the Parties agreed that "for interim purposes pending a final decision by the Commission in this docket, it is appropriate and reasonable to adopt an average rate base for KRWC of \$2,342,923, a rate of return on the rate base of 8.85 percent, and test year ending December 31, 2006 revenue requirements or results of operations of \$1,522,255, as set forth in Exhibits A and B [to the

⁷Consumer Advocate's Direct Testimonies, filed on June 30, 2006, at 80-81.

⁸See Stipulated Interim Relief Letter at 4.

Stipulated Interim Relief Letter].”⁹ They further agreed that “based on the probable entitlement standard for the establishment of interim rates, KRWC would be entitled to an interim increase in revenues of \$572,314 (\$1,522,255 - \$949,941), or 60.25 percent ($\$572,314 \div \$949,941$) over revenues at present rates.”¹⁰

To address the Consumer Advocate’s concern with “rate shock” to KRWC’s customers from the imposition of a 60.25 percent rate increase, the Parties agreed to implement the increase in two phases. The first phase or Phase I as characterized by the Parties is an interim increase in revenues of \$353,659, or 37.23 percent over revenues at present rates. The final phase or Phase II of the rate increase includes an additional \$218,655, or 23.02 percent over revenues at present rates, which should be effective on or about May 1, 2007.

Based on the Parties’ agreements, they request the following interim rates:

	Present Rates	Interim Proposed Rates	Percentage Change
<u>Monthly Meter Charges</u>			
5/8 inch	\$ 4.00	\$16.00	300 %
1 inch	\$11.50	\$46.00	300 %
1-1/2 inch	\$22.00	\$88.00	300 %
2 inch	\$30.00	\$120.00	300 %
3 inch	\$60.00	\$240.00	300 %

⁹Id.

¹⁰Id. at 5.

<u>Monthly Consumption Charges</u>	<u>Present Rates</u>	<u>Interim Proposed Rates</u>	<u>Percentage Change</u>
Base Monthly Consumption Charge per 1,000 Gallons Of Usage	\$2.71	\$4.70	
Automatic Power Cost Adjustment Clause Per 1,000 Gallons of Usage	\$1.07	\$0.00	
Total Charge Per 1,000 gallons of usage	\$3.78	\$4.70	24.3 %

In lieu of the tiered rate structure originally proposed by KRWC, the Parties agreed to a rate structure that results in the proposed interim (Phase I) and proposed final (Phase II) rate structure, as described in Exhibit B to the Stipulated Interim Relief Letter, to serve the following objectives: (1) to allow KRWC to recover the fixed expenses through a fixed charge and the variable expenses through a volumetric fee; and (2) to prevent excessive "rate shock" to KRWC's customers.

The Parties recognized that "any proposed rates that are intended to generate sufficient revenues to recover the test year fixed costs would result in an unreasonable percentage and dollar increase if done in the instant proceeding."¹¹ Therefore, the Parties agreed upon a fixed monthly customer charge that would recover most, if not all, of the depreciation expense, net of the amortization of contributions in aid of construction. The Parties assert that the proposed fixed monthly rates allow KRWC to migrate toward a rate structure that allows for the

¹¹Stipulated Interim Relief Letter at 5.

recovery of the fixed costs through the fixed monthly customer charge, while holding the increase to a reasonable level. Once the monthly customer charge was established, the test year revenues resulting from these charges were determined. The remaining test year revenue requirement was then divided by the test year gallons of water sold to derive the volumetric rate of \$4.70 for interim purposes and \$5.635 for the second phase.

Accordingly, KRWC, with the agreement of the Consumer Advocate, proposes that the commission "bifurcate KRWC's Application into Phase I (i.e., interim relief) and Phase II (i.e., all other outstanding issues and matters regarding KRWC's Application plus an increase in rates for the remainder of the revenue requirement as shown on Exhibit B) and issue an interim decision and order as part of Phase I Assuming the Commission approves the above requests, the Parties will thereafter informally confer with KBTS to attempt to reach a stipulation to amend the March 24, 2006 Stipulated Regulatory Schedule to address the Phase II issues and matters (i.e., all other outstanding issues regarding KRWC's Application plus the final rate increase to be effective on or about May 1, 2007)."¹² According to the Parties, they "have agreed to the proposed rates and rate structure for both interim and final purposes. However, to simplify matters and to avoid any confusion for purposes of granting interim relief, the details of the Parties' agreement in connection with their proposed final rates and rate structure will be memorialized in a separate settlement document

¹²Stipulated Interim Relief Letter at 7.

to be filed subsequent to addressing other outstanding matters such as KRWC's proposed rules and regulations."¹³

II.

Discussion

HRS § 269-16(d) requires the commission to make every effort to complete its deliberations with respect to a public utility's request for a rate increase "as expeditiously as possible and before nine months from the date the public utility filed its completed application." The statute further provides that, if such deliberations are not concluded within the nine-month period, the commission shall render an interim decision within one month after the expiration of the nine-month period. It further states that the commission may postpone its interim rate decision an additional thirty days if the commission considers the evidentiary hearing incomplete. The interim decision may allow an increase in rates if the commission believes the public utility is "probably entitled" to such interim rate relief.

KRWC filed its Application on January 5, 2006. The nine-month deadline for issuing a decision and order in this proceeding is October 5, 2006. The ten-month deadline for an interim decision is November 5, 2006. This Interim Decision and Order is issued in compliance with HRS § 269-16(d), and addresses only the matters related to interim rate relief.

¹³Stipulated Interim Relief Letter at 2 n.4.

A.

Interim Increase

In reviewing the Stipulated Interim Relief Letter, the commission agrees that KRWC is probably entitled to the level of relief requested in the Stipulated Interim Relief Letter and that without interim relief KRWC may be denied an opportunity to earn a fair return on its rate base. Attached to this Interim Decision and Order is Exhibit A, which provides the commission's estimates of operating revenues, expenses, and the average depreciated rate base for the test year for purposes of this Interim Decision and Order. The numbers are based on the stipulated schedules filed with the Stipulated Interim Relief Letter.

For interim relief purposes, the commission applies the average test year methodology, and finds reasonable an average depreciated rate base of \$2,342,923; a return on rate base of 8.85 percent; and test year results of operations, as set forth in Exhibit A of this Interim Decision and Order.¹⁴ Although KRWC may be entitled to an interim increase in revenues of \$572,314, or an increase of 60.25 percent over revenues at present rates, which is the entire increase that the Parties appear to have agreed upon in the Parties' Stipulated Interim Relief letter, the commission shall withhold judgment on the entire stipulated increase until the Parties memorialize the details of their agreement on the final rate increase to be effective on or about

¹⁴For interim rate relief purposes, the allocation of revenue increases should reflect the proposal agreed upon by KRWC and the Consumer Advocate, as set forth in their Stipulated Interim Relief Letter.

May 1, 2007. On an interim basis, KRWC should be allowed to increase its rates to such levels as will produce, in the aggregate \$353,659, or 37.23 percent over revenues at present rates, as stipulated to by the Parties pending "the Parties' agreement in connection with their proposed final rates and rate structure [which] will be memorialized in a separate settlement document."¹⁵

Based on the established record, it appears that KRWC will probably be entitled to, at least, the level of relief that the commission is granting in this Interim Decision and Order. The interim relief granted herein meets KRWC's need for immediate rate relief and protects the interests of ratepayers. Accordingly, the commission finds the Parties' agreements on these matters, for the purposes of interim rate relief, to be reasonable.

B.

Refund Requirement

The commission emphasizes that the adoption here of the various amounts reflected in Exhibit A is only for the purposes of this Interim Decision and Order. It does not, in any way, commit the commission to accept any of these amounts in its final decision for this docket. The commission's final decision will reflect a more detailed review and analysis of all estimates and proposals of the Parties.

KRWC will be required to refund to its customers any excess collected under this Interim Decision and Order, together

¹⁵See Stipulated Interim Relief Letter at 2 n.4.

with such interest as provided for by HRS § 269-16(d), if the final increase approved by the commission is less than the total interim increase granted by this Interim Decision and Order.

C.

Waiver of Evidentiary Hearing

HAR § 6-61-35 provides that with the approval of the commission, any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

The Parties state in the title of the Stipulated Interim Relief Letter that it is being filed in lieu of holding an evidentiary hearing. This is, however, the sole reference to the Parties' waiver of the hearing. Accordingly, by letter dated September 28, 2006, the commission requested clarification from the Parties as to whether they had intended to waive their right to a contested case hearing for all issues in this docket (including both Phase I and Phase II, issues), as described in the Parties' Stipulated Interim Relief Letter. With respect to the participant, KBTS, who did not sign the Stipulated Interim Relief Letter, the commission inquired as to whether it believed it was entitled to an evidentiary hearing and, if so, the nature of the testimony it intended to provide. The deadline for responses was October 6, 2006.

On October 3, 2006, the Parties submitted a Joint Letter Clarifying Waiver of Right of Evidentiary Hearing ("Clarification Letter") in which the Parties confirmed that

"they have stipulated, pursuant to [HAR] § 6-61-35, to waive their rights to a contested case hearing for all issues in this docket (including both Phase I and Phase II issues) . . ."¹⁶

The Parties stated that they had agreed to brief any unresolved issues concerning Phase II for the commission's review and determination, in lieu of a contested case hearing.¹⁷

By letter dated September 27, 2006, filed on September 29, 2006, KBTS stated that it "waives the necessity for an evidentiary hearing on the matter of the interim settlement reached between the Applicant and the Consumer Advocate's office." Thereafter, by letter dated October 12, 2006, filed on October 16, 2006, KBTS argued that the commission was required to hold an evidentiary hearing and that it intended to "provide testimony related to its Firewise program." According to KBTS, it "has no right to the prescribed evidentiary hearing different than that of the public generally" and that "[i]f the parties to the case do not address the issue of this fire prevention program, [KBTS] as a participant cannot force the issue to be addressed by parties to the proceeding."¹⁸

Here, it is clear that the Parties have waived their right to a contested case hearing and that they intend to resolve the remaining outstanding issues via written briefs or stipulation. KBTS, in contrast, asserts that it is entitled to a

¹⁶Clarification Letter at 1.

¹⁷Id. at 1-2.

¹⁸See Letter dated October 12, 2006, filed October 16, 2006, from Alan Tuhy to the commission. On October 19, 2006, and October 23, 2006, KRWC and the Consumer Advocate, respectively, filed responses to KBTS' October 12, 2006 letter.

contested case hearing. The commission, however, limited KBTS' participation to the submission of written direct and rebuttal testimonies on the Firewise program, and did not expressly permit KBTS to participate in an evidentiary hearing, if any. KBTS has since filed direct testimony on the Firewise program, but has not submitted any rebuttal testimony on the subject. As the commission already has KBTS' direct testimony, and the Parties apparently do not wish to cross-examine KBTS on its direct testimony, and KBTS is otherwise limited to testimony related to the Firewise program, it appears that there is no reason to hold an evidentiary hearing in this instance. Indeed, despite the commission's request, KBTS failed to articulate the evidence it would provide at an evidentiary hearing apart from that which is already a part of the record in this docket. Accordingly, an evidentiary hearing is not necessary in this docket.

III.

Orders

THE COMMISSION ORDERS:

1. KRWC may increase its rates, on an interim basis, to such levels as will produce, in the aggregate \$353,659, or 37.23 percent over revenues at present rates. Such interim rates shall be effective from the date of this Interim Decision and Order, until the commission issues a final decision in this docket.

2. Within five days of the date of this Interim Decision and Order, KRWC shall submit a revised schedule of rates

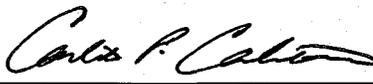
and charges, reflecting the increase in rates allowed by this Interim Decision and Order.

3. Upon issuance of the final decision and order in this docket, any amount collected pursuant to this interim rate increase that is in excess of the increase determined by the final decision and order to be just and reasonable shall be refunded to KRWC's ratepayers, together with interest as provided by HRS § 269-16(d).

4. The Parties' request to waive the evidentiary hearing in this proceeding is approved.

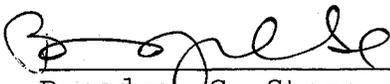
DONE at Honolulu, Hawaii NOV - 3 2006

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

05-0334.eh

**DOCKET NO. 05-0334
 KOHALA RANCH WATER COMPANY
 REVENUE REQUIREMENTS
 TEST YEAR ENDED DECEMBER 31, 2006**

	Present Rates	Additional Amount	Interim Rates
REVENUES			
Residential Usage	\$ 626,898	732,214	\$ 1,359,112
Residential Meter Charges	30,027	35,071	65,098
Installation	32,824	38,338	71,162
Hydrant	12,169	14,213	26,382
Power Cost Adjustment Rev.	247,564	(247,564)	\$ -
Finance Charge Income	500	-	\$ 500
Total Operating Revenues	\$ 949,982	\$ 572,272	\$ 1,522,254
OPERATING & MAINT. EXPENSES			
Electricity	\$ 478,212		\$ 478,212
Operations Contract	264,744		264,744
Repairs and Maintenance	7,100		7,100
Meter Installation	29,750		29,750
Testing, Fuels & Supplies	4,300		4,300
Facilities Site Maintenance	28,128		28,128
Insurance	26,092		26,092
Accounting, Management Fees	39,200		39,200
Legal & Other Professional	10,000		10,000
Office Supplies, Exp. & Postage	6,000		6,000
Communications	8,500		8,500
Rate Case Amortization	36,170		36,170
Total O & M Expenses	\$ 938,196		\$ 938,196
Depreciation	\$ 175,638		\$ 175,638
Amortization of CIAC	(23,140)		(23,140)
TOTIT	60,656	36,540	97,196
Income Taxes	(76,495)	203,511	127,016
Net Operating Expense	\$ 136,660	\$ 240,050	\$ 376,710
Net Operating Income (Loss)	\$ (124,874)	\$ 332,222	\$ 207,348
Average Rate Base	2,342,923		2,342,923
Return on Rate Base	-5.33%		8.85%

**DOCKET NO. 05-0334
 KOHALA RANCH WATER COMPANY
 REVENUE TAXES
 TEST YEAR ENDED DECEMBER 31, 2006**

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Adjustments</u>	<u>Interim Rates</u>
Total Operating Revenues		<u>949,982</u>	<u>572,272</u>	<u>1,522,254</u>
Public Company Service Tax	5.885%	55,906	33,678	89,585
Public Utility Fee	0.500%	<u>4,750</u>	<u>2,861</u>	<u>7,611</u>
Total Revenue Taxes	6.385%	<u>60,656</u>	<u>36,540</u>	<u>97,196</u>

**DOCKET NO. 05-0334
 KOHALA RANCH WATER COMPANY
 AVERAGE RATE BASE
 TEST YEAR ENDED DECEMBER 31, 2006**

Description	<u>At 12/31/2005</u>	<u>At 12/31/2006</u>	<u>Average</u>
Plant in Service	7,639,845	7,639,845	
Accum. Depreciation	3,717,191	3,892,829	
Net-Plant-in-Service	<u>3,922,654</u>	<u>3,747,016</u>	3,834,835
Deduct:			
Customer Deposits	(22,000)	(22,000)	
CIAC	(578,520)	(578,520)	
Accumulated Deferred Income Tax	(1,368,405)	(1,338,631)	
Subtotal	<u>(1,968,925)</u>	<u>(1,939,151)</u>	(1,954,038)
Add:			
Accumulated Amortization of CIAC	372,373	395,513	
Subtotal	<u>372,373</u>	<u>395,513</u>	383,943
Average			2,264,740
Working Cash at Present Rates			<u>78,183</u>
Rate Base at Present and Proposed Rates			<u><u>2,342,923</u></u>

**DOCKET NO. 05-0334
 KOHALA RANCH WATER COMPANY
 INCOME TAX EXPENSE
 TEST YEAR ENDED DECEMBER 31, 2006**

	Present Rates	Interim Rates
REVENUES		
Residential Usage	626,898	1,359,112
Residential Meter Charges	30,027	65,098
Installation	32,824	71,162
Hydrant	12,169	26,382
Power Cost Adjustment Rev.	247,564	-
Finance Charge Income	500	500
Total Operating Revenues	949,982	1,522,254
OPERATING & MAINT. EXPENSES		
Electricity	478212	478,212
Operations Contract	264744	264,744
Repairs and Maintenance	7100	7,100
Meter Installation	29750	29,750
Testing, Fuels & Supplies	4300	4,300
Facilities Site Maintenance	28128	28,128
Insurance	26092	26,092
Accounting, Management Fees	39200	39,200
Legal & Other Professional	10000	10,000
Office Supplies, Exp. & Postage	6000	6,000
Communications	8500	8,500
Rate Case Amortization	36170	36,170
Total O & M Expenses	938196	938,196
Depreciation	175,638	175,638
Amortization of CIAC	(23,140)	(23,140)
TOTIT	60,656	97,196
Net Operating Expense	213,154	249,694
Taxable Income	(201,368)	334,364
Income Tax Provision		
Effective tax rate of	37.9874%	(76,495)
		127,016
Income Tax Expense	(76,495)	127,016

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Interim Decision and Order No. 23013 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
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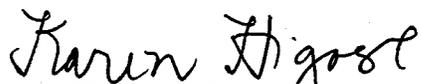
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Karen Higashi

DATED: NOV - 3 2006