

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
WAIKOLOA RESORT UTILITIES, INC., )  
dba WEST HAWAII UTILITY COMPANY )  
For Approval to Increase Rates. )

DOCKET NO. 2006-0409

ORDER NO. 23266

Filed Feb. 20, 2007  
At 2 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

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Chief Clerk, Public Utilities  
Commission, State of Hawaii.

Karen Higashi

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In the Matter of the Application of)  
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dba WEST HAWAII UTILITY COMPANY )  
For Approval to Increase Rates. )  
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Docket No. 2006-0409

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ORDER

By this Order, the commission: (1) concludes that the date of the completed Application filed by WAIKOLOA RESORT UTILITIES, INC., dba WEST HAWAII UTILITY COMPANY ("WHUC"),<sup>1</sup> is January 26, 2007; and (2) instructs the Parties to submit a stipulated prehearing order for the commission's review and consideration within thirty days from the date of this Order. If the Parties are unable to stipulate to a prehearing order, the commission will issue its own prehearing order, consistent with HRS § 269-16(d).

I.

Background

WHUC is a public utility that provides water and sewer services to the condominiums, hotels, and other commercial

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<sup>1</sup>The Parties in this proceeding are WHUC and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

establishments located within the Waikoloa Beach Resort service area on the island of Hawaii.

On October 12, 2006, WHUC filed its Notice of Intent to File Rate Increase, informing the commission and the Consumer Advocate of its intent to file an application for a general rate increase no later than December 29, 2006.<sup>2</sup>

On December 29, 2006, WHUC filed its Application seeking the commission's approval of general rate increases of: (1) \$1,594,313, or 52%, over revenues at present rates for its water service; and (2) \$1,107,089, or 132%, over revenues at present rates for its sewer service.<sup>3</sup> The requested increases are based on an estimated total revenue requirement of \$6,901,957 for the 2007 calendar test year (including non-potable irrigation service revenues), and an overall rate of return of 11.8%.

In general, WHUC states that its last increase in rates took effect in 1997, and since that time: (1) it has and continues to make significant investments in its utility plant to meet the increasing demands on its facilities; and (2) its current rates will not be sufficient to cover its operating costs in the future, or to earn a fair rate of return.

WHUC's present and proposed water and sewer charges are as follows:

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<sup>2</sup>WHUC's Notice of Intent to File Rate Increase; and Certificate of Service, filed on October 12, 2006 (collectively, "Notice of Intent"). As a public utility with annual gross operating revenues of \$2 million or more, WHUC filed its Notice of Intent in compliance HAR § 6-61-85.

<sup>3</sup>WHUC's Application; Exhibits WHUC 1 to 9-3; and Certificate of Service, filed on December 29, 2006 (collectively, "Application"). WHUC served copies of its Application upon the Consumer Advocate.

Minimum Monthly Water Service Charge

<u>Meter Size</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>% Increase</u>
5/8" & 3/4"	\$7.20	\$10.92	52%
1"	\$13.80	\$20.93	52%
1-1/2"	\$24.20	\$36.70	52%
2"	\$33	\$50.04	52%
3"	\$66	\$100.09	52%
4"	\$110	\$166.81	52%
6"	\$220	\$333.62	52%
8"	\$396	\$600.52	52%

Monthly Water Quantity Charge

<u>Present Charge</u>	<u>Proposed Charge</u>	<u>% Increase</u>
\$2.68 per thousand gallons ("TG")	4.06 per TG	52%

Minimum Monthly Private Fire Service Charge

<u>Meter Size</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>% Increase</u>
4"	\$110	\$166.81	52%
6"	\$220	\$333.62	52%
8"	\$396	\$600.52	52%

Minimum Monthly Sewer Service Charge

<u>Classification</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>% Increase</u>
Residential - Condo/Hotel	\$4.25 per month per living unit	\$9.86 per month per living unit	132%
Commercial	\$10 per connection per month	\$23.21 per connection per month	132%

Monthly Sewer Consumption Charge

(For Residential - Condo/Hotel and Commercial)

<u>Present Charge</u>	<u>Proposed Charge</u>	<u>% Increase</u>
\$1 per TG/metered potable water	\$2.32 per TG/metered potable water	132%

As part of its Application, WHUC also requests the commission's approval to: (1) revise its Automatic Power Cost Adjustment clause, to reflect current motor efficiencies and

electric costs per kWh; and (2) reduce the monthly non-potable irrigation consumption charge assessed to golf courses, from \$0.30 per TG to \$0.29 per TG, a percentage decrease of approximately 3.3%.

On January 19, 2007, the Consumer Advocate filed its Statement of Position Regarding the Completeness of Application, stating that WHUC "has not strictly complied with the requirements of HAR Chapter 61, Subchapters 6 and 8, pertaining to general rate increase applications for public utilities with annual gross operating revenues of \$2,000,000 or more."<sup>4</sup> Specifically, the Consumer Advocate asserted that WHUC did not strictly comply with the requirements governing the completeness of general rate increase applications filed by public utilities, as set forth in HAR §§ 6-61-75(a)(4), 6-61-75(b)(1), and 6-61-87(7).

On January 22, 2007, the commission notified the Parties of a hearing on the Consumer Advocate's objections to the completeness of WHUC's Application, scheduled for February 7, 2007, 1:30 p.m., at the commission's hearing room, pursuant to HRS § 269-16(d).<sup>5</sup>

On January 26, 2007, WHUC filed its Response to the Division of Consumer Advocacy's Statement of Position Regarding Completeness of Application, by which WHUC provided additional

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<sup>4</sup>Consumer Advocate's Statement of Position Regarding Completeness of Application; and Certificate of Service, filed on January 19, 2007 (collectively "Statement of Position"), at 1.

<sup>5</sup>Commission's letter, dated January 22, 2007; and Notice of Hearing on Objections, dated January 22, 2007.

information to supplement its Application.<sup>6</sup> On January 31, 2007, the Consumer Advocate filed its Supplemental Statement of Position Regarding Completeness of Application, stating that based on the additional information submitted by WHUC, it appeared that WHUC was now in compliance with the requirements of "HAR Chapter 61, Subchapters 6 and 8, pertaining to general rate increase applications for public utilities with annual gross operating revenues of \$2,000,000 or more."<sup>7</sup> As such, the Consumer Advocate concluded that "the need for a hearing on any objections to the completeness of [WHUC's] application, currently scheduled for February 7, 2007 may no longer be necessary."<sup>8</sup> On February 1, 2007, WHUC informed the commission that based on its review of the Consumer Advocate's Supplemental Statement, "the scheduled February 7, 2007 hearing will no longer be necessary."<sup>9</sup>

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<sup>6</sup>WHUC's Response to the Division of Consumer Advocacy's Statement of Position Regarding Completeness of Application; WHUC Exhibit 2E; and Certificate of Service, filed on January 26, 2007 (collectively, "Response").

<sup>7</sup>Consumer Advocate's Supplemental Statement of Position Regarding Completeness of Application; and Certificate of Service, filed on January 31, 2007 (collectively, "Supplemental Statement of Position"), at 1.

<sup>8</sup>Consumer Advocate's Supplemental Statement of Position, at 2 (footnote and text therein omitted).

<sup>9</sup>WHUC's letter, dated February 1, 2007, at 1. Based on the Parties' representations, the commission cancelled the hearing on the Consumer Advocate's objections to the completeness of WHUC's Application, scheduled for February 7, 2007, 1:30 p.m. See commission's letter, dated February 9, 2007.

## II.

### Discussion

As a public utility with annual gross operating revenues of \$2 million or more, WHUC filed its Application pursuant to: (1) HRS § 269-16, excluding subsection (f);<sup>10</sup> and (2) HAR §§ 6-61-75, 6-61-86, and 6-61-87.

### A.

#### Completed Application

HRS § 269-16(d) provides in relevant part:

(d)

. . . . .

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may, within twenty-one days after receipt, object to the sufficiency of any application, and the commission shall hear and determine any objection within twenty-one days after it is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant to submit an amended application consistent with its findings, and the nine-month period shall not commence until the amended application is filed.

HAR §§ 6-61-75(a)(4) and 6-61-75(b)(1) state:

Financial statement. (a) Unless otherwise directed by the commission, whenever this chapter provides that a financial statement shall be submitted with an application or petition, the

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<sup>10</sup>The provisions of HRS § 269-16(f) apply to public utilities with annual gross revenues of less than \$2 million.

statement shall be prepared up to the latest available date and shall show, where applicable, the following information:

. . . . .

- (4) Amount of bonds authorized and issued, giving the name of the public utility or parent company which issued same, describing each class separately, and giving the date of issue, par value, rate of interest, date of maturity and manner secured, together with amount of interest paid thereon during the last calendar year and any special provisions in the indenture, such as sinking fund provisions and interest coverage;

. . . . .

(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[.]

HAR § 6-61-87(7) provides:

Requirements for general rate increase applications by a public utility with annual gross operating revenues of \$2,000,000 or more. For an application by a public utility with annual gross revenues from its public utility business of \$2,000,000 or more 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 section 269-16, HRS, in addition to meeting the requirements in section 6-61-86, must contain the following:

. . . . .

- (7) Which of the optional methods provided in the Internal Revenue Code of 1986 the applicant has elected to employ in computing deferred taxes, investment tax credit, and depreciation deduction in determining its federal income tax payments and whether the applicant has used the same method or methods in



calculating federal income taxes for the test year for ratemaking purposes[.]

In its Statement of Position filed on January 19, 2007, the Consumer Advocate asserted that WHUC's Application did not include the information required by HAR §§ 6-61-75(a)(4), 6-61-75(b)(1), and 6-61-87(7), WHUC, in its Response filed on January 26, 2007, provided the following additional information to supplement its Application:

1. WHUC uses the accelerated cost recovery system (ACRS) or modified accelerated cost recovery system (MACRS) as prescribed in Internal Revenue Code Section 168. Under this method, the tax depreciation was computed under prescribed depreciation methods and useful lives of utility plant and equipment. In addition, WHUC uses the normalization method of accounting with respect to its utility property. This method requires WHUC to calculate its tax expense for the 2007 test year by calculating the depreciation deduction amount (straight-line). As a result, WHUC used its 2007 test year depreciation expense as its federal tax depreciation deduction in computing its income tax expense for the 2007 test year. This method also requires that WHUC record as its deferred taxes the difference between its income tax calculated using the depreciation determined under the normalization method and income tax determined using the ACRS or MACRS methods. Moreover, WHUC does not use investment tax credits. Accordingly, there are no investment tax credits included in WHUC's rate base calculations.

2. With respect to the balance sheet submitted as WHUC's Exhibit 2E, WHUC notes that it is an audited balance sheet. In response to the Consumer Advocate's request, WHUC hereby submits a new WHUC Exhibit 2E, attached hereto and including the Independent Auditor's Report and accompanying notes, and hereby withdraws its previous WHUC Exhibit 2E.

3. WHUC has not issued any bonds.

WHUC's Response, at 1 - 2.

The commission finds that with the additional information submitted by WHUC, WHUC's Application is complete and properly filed under HRS § 269-16(d) and HAR §§ 6-61-75, 6-61-86, and 6-61-87. Accordingly, the filing date of WHUC's completed Application is January 26, 2007, the filing date of WHUC's Response.

B.

Public Hearing

The commission will schedule a public hearing on WHUC's completed Application on the island of Hawaii, consistent with HRS §§ 269-12(c) and 269-16(b). The Parties will be notified of the date, time, and location of the public hearing.

C.

Stipulated Prehearing Order

Within thirty days from the date of this Order, the Parties shall submit a stipulated prehearing order setting forth the issues, procedures, and schedule of proceedings to govern WHUC's Application, for the commission's review and consideration.<sup>11</sup> If the Parties are unable to stipulate to a prehearing order, the commission will issue its own prehearing order, consistent with HRS § 269-16(d).

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<sup>11</sup>In the event intervenor or participant status is granted to any interested person, the commission will amend the prehearing order accordingly, to the extent necessary.

III.

Orders

THE COMMISSION ORDERS:

1. The filing date of WHUC's completed Application is January 26, 2007.

2. Unless ordered otherwise, within thirty days from the date of this Order, the Parties shall submit a stipulated prehearing order setting forth the issues, procedures, and schedule of proceedings to govern WHUC's Application, for the commission's review and consideration. If the Parties are unable to stipulate to a prehearing order, the commission will issue its own prehearing order, consistent with HRS § 269-16(d).

DONE at Honolulu, Hawaii FEB 20 2007.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama

Michael Azama  
Commission Counsel

2006-0409.eh

CERTIFICATE OF SERVICE

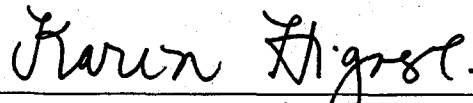
I hereby certify that I have this date served a copy of the foregoing Order No. 23266 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI  
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Karen Higashi

DATED: FEB 20 2007