

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

MILLER AND LIEB)
WATER COMPANY, INC., nka HAWAIIAN)
BEACHES WATER COMPANY, INC.)

DOCKET NO. 2006-0442

For Review and Approval of (a) a)
Rate Increase and Revised Rate)
Schedules and (b) Certain Financing)
Arrangements for New Utility)
Improvements.)
_____)

PROPOSED DECISION AND ORDER NO. 23423

Filed May 8, 2007
At 9 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

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Commission, State of Hawaii

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Rate Increase and Revised Rate)
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Improvements.)

and Order No. **23423**

PROPOSED DECISION AND ORDER

The commission issues this Proposed Decision and Order in accordance with Hawaii Revised Statutes ("HRS") § 269-16(f) and in response to the application of MILLER AND LIEB WATER COMPANY, INC. ("Miller & Lieb"), now known as HAWAIIAN BEACHES WATER COMPANY, INC. ("HBWC"),¹ filed on November 8, 2006.²

¹In a recent proceeding, the commission, among other things, conditionally approved the joint application filed by Miller & Lieb and HBWC to sell and transfer Miller & Lieb's utility assets and operations to HBWC ("Change of Control"). See In re Miller and Lieb Water Company, Inc. and Hawaiian Beaches Water Company, Inc., Docket No. 2006-0437, Decision and Order No. 23313, filed on March 21, 2007 ("Decision and Order No. 23313"). By letter dated and filed on April 3, 2007, HBWC notified the commission that the Change of Control became "effective" on April 1, 2007. Additionally, it stated that: (1) HBWC has assumed and succeeded to all of Miller & Lieb's interest in this proceeding; and (2) therefore, all references to Miller & Lieb in this proceeding should now be referred to as HBWC. Accordingly, on a going-forward basis the water utility once known as Miller & Lieb will now be referred to as HBWC, unless specifically noted otherwise.

²On November 8, 2006, HBWC filed its Application; Exhibits MLW 1 - MLW 10; Exhibit MLW-T-100; Exhibit MLW-T-200; Verification (a notarized version of which was filed on

By this Proposed Decision and Order, the commission conditionally approves an increase of additional revenues of \$374,134, or approximately 118.0%, over revenues at present rates for services rendered by HBWC, based on a total revenue requirement of \$691,294 for the test year ending December 31, 2007 ("Test Year"). In doing so, the commission also approves in part and denies in part, the Parties' "Stipulation of Settlement Agreement in Lieu of [HBWC's] Rebuttal Testimonies" filed on April 4, 2007 ("Stipulation"), as described herein.

I.

Background

A.

HBWC

HBWC is a Hawaii corporation and a public utility as defined by HRS § 269-1 and, thus, is regulated by the commission under Chapter 269, HRS. Prior to the commission's conditional approval of the Change of Control, HBWC operated as Miller & Lieb.³ In the Change of Control proceeding, the commission issued HBWC a certificate of public convenience and necessity ("CPCN")

November 13, 2006); and Certificate of Service (collectively, "Application"). Copies of the Application were served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. HBWC and the Consumer Advocate, the sole parties to this proceeding, are hereafter collectively referred to as the "Parties."

³Miller & Lieb and HBWC jointly filed for commission approval of the Change of Control and related matters on November 3, 2006.

to operate as a public utility within the Hawaiian Beaches Subdivision located in Pahoia, Puna District of the island of Hawaii and concurrently terminated Miller & Lieb's authority⁴ to operate as a public utility of water service in the area.⁵

HBWC currently serves approximately 1,100 customers within its authorized service territory and charges its customers a flat monthly Water Service Charge of \$12.00 plus an additional charge for an electric power adjustment clause ("EPAC").⁶ The only other established charge set forth in HBWC's rate

⁴Miller & Lieb did not have a CPCN to operate as a public utility, as it was exempt from the requirement under HRS § 269-7.5(d). HRS § 269-7.5(d) states:

No public utility that holds a franchise or charter enacted or granted by the legislative or executive authority of the State [of Hawaii] or its predecessor governments, or that has a bona fide operation as a public utility heretofore recognized by the commission, shall be required to obtain a certificate of public convenience and necessity under this section.

HRS § 269-7.5(d).

The commission authorized Miller & Lieb on an interim basis, to provide water service as a public utility charging \$6.00 per month in the Hawaiian Beaches Subdivision during the October 24, 1975 quorum meeting, effective as of the date of the meeting. Subsequently, on December 26, 1975, the commission, in Docket No. 2748, held that Miller & Lieb's operations constituted a public utility by definition and authorized Miller & Lieb to publish, establish, and assess an interim rate of \$6.00 per month, effective from October 24, 1975. HRS § 269-7.5 became effective on May 16, 1978. See Decision and Order No. 23313 at 2-3 n.3.

⁵See Decision and Order No. 23313 at 29.

⁶HBWC received commission approval of its current rates in In re Miller and Lieb Water Company, Inc., Docket No. 3822, Decision and Order No. 6354, filed on August 28, 1980.

schedule is a non-recurring Water Service Connection Charge of \$250.00 per connection.

B.

HBWC's Application

On November 8, 2006, HBWC filed its Application for commission approval of, among other things, a general rate increase of \$392,987, or approximately 123.9% over revenues at present rates, pursuant to HRS § 269-16.⁷ The requested increase is based on an estimated total revenue requirement of \$710,147 for its Test Year, and a proposed rate of return of 9.5%.

HBWC initially proposed to increase its rates and charges as follows:

⁷Recognizing that its request would require an increase of over 100% from its existing base rate of \$12.00 per month plus its current EPAC of approximately \$10.00, HBWC proposed to phase-in the increase so that its current total water service charge of approximately \$22.00 per month is first increased to \$36.00 per month ("Interim Rate"). HBWC proposed that this Interim Rate would be in effect for twelve (12) months, following the issuance of the commission's decision and order regarding HBWC's rate increase request.

	Present Rates	Proposed Rates
Non-Recurring Charges:		
Water Service Connection Charge	\$250.00 per Connection	\$1,500.00 per Connection
Voluntary Disconnect and Reconnection Charge	---	\$260.00 per Request
Involuntary Disconnect and Reconnection Charge	---	\$60.00 per Instance
Return Check Fee	---	\$30.00 plus Bank Charge
Recurring Charge:		
Water Service Charge	\$12.00 plus EPAC	\$49.24 (Includes EPAC)

HBWC also requested commission approval to reset its EPAC from the existing base rate for electricity of \$0.228 per thousand gallons ("TGs") to \$0.7604 per TGs, using an average per customer usage amount of 17,000 gallons per month. HBWC also requested commission approval of certain changes to its Rules and Regulations Governing Water Service ("Rules and Regulations" or "Tariff") and approval of certain financial transactions, under HRS §§ 269-17 and 269-19, which will be used to finance proposed water system improvements, including the drilling and outfitting of a new water production well and pump, and associated storage facilities.⁸

⁸See Consumer Advocate's Statement of Position Regarding Completeness of Application, filed on November 28, 2006. Additionally, on December 7, 2006, HBWC filed its proposed new Tariff for the commission's review and approval and on December 11, 2006, filed Errata to HBWC's proposed rate schedules. Thereafter, on December 27, 2006, the commission

In its Application, HBWC requested, pursuant to HAR § 6-61-92, that its unaudited financial statements, submitted with its Application, be accepted in lieu of audited financial statements as required by HAR § 6-61-75(b)(1) ("Waiver Request"). HBWC also requested that the commission conduct a public hearing on the island of Hawaii pursuant to HRS § 269-16 and Chapter 6-61, HAR.

On November 28, 2006, the Consumer Advocate informed the commission that it does not object to the completeness of HBWC's Application.⁹ On December 13, 2006, the commission issued Order No. 23134 acknowledging that the filing date of HBWC's complete Application is November 8, 2006, and approving HBWC's Waiver Request. Moreover, the commission required the Parties to begin discovery without delay and submit a proposed stipulated procedural order within thirty (30) days of the date of the issuance of Order No. 23134.

issued Protective Order No. 23164, pursuant to the Stipulation for Protective Order entered into and filed jointly by the Parties on December 20, 2006.

⁹See Consumer Advocate's Statement of Position Regarding Completeness of Application, filed on November 28, 2006. Additionally, on December 7, 2006, HBWC filed its proposed new Tariff for the commission's review and approval and on December 11, 2006, filed Errata to HBWC's proposed rate schedules. Thereafter, on December 27, 2006, the commission issued Protective Order No. 23164, pursuant to the Stipulation for Protective Order entered into and filed jointly by the Parties on December 20, 2006.

C.

Issues

On January 8, 2007, the Parties filed their proposed Stipulated Procedural Order setting forth their proposed issues and a regulatory schedule to govern the proceedings in this docket. On February 5, 2007, the commission issued Order No. 23244 adopting the filed Stipulated Procedural Order with certain modifications.¹⁰

The issues of this proceeding, as set forth in Stipulated Procedural Order No. 23244, are as follows:

1. Is HBWC's proposed rate increase reasonable?
 - a. Are the proposed tariffs, rates, and charges just and reasonable?
 - b. Are the revenue forecasts for the Test Year at present rates and proposed rates reasonable?
 - c. Are the projected operating expenses for the Test Year reasonable?
 - d. Is the projected rate base for the Test Year reasonable, and are the properties included in the rate base used or useful for public utility purposes?

¹⁰In response to the commission's order that the Parties begin discovery without delay, the Consumer Advocate issued HBWC information requests ("IRs") on December 15, 2006, for which HBWC filed responses on January 5, 2007. Shortly thereafter, the Consumer Advocate issued supplemental IRs on January 19, 2007, for which HBWC provided responses on January 29, 2007. HBWC filed supplemental responses to certain IRs on February 2 and 5, 2007.

- e. Is the rate of return requested fair?
2. Should the proposed financing and mortgaging of certain water system improvements, including the drilling and outfitting of a new water production well and pump and associated storage facilities be approved under HRS §§ 269-17 and 269-19?

Issue No. 1 and its various sub-parts are hereafter referred to as the "Rate Relief Issues" while Issue No. 2 is referred to as the "Financing Issue."

D.

Public Hearing Process

In accordance with HRS §§ 1-28.5 and 269-16(c), the commission published its Notice of Public Hearing in various newspapers statewide.¹¹ By letter dated January 8, 2007, HBWC informed the commission that it notified all of its customers of its rate relief request and the upcoming public hearing through a customer notice mailed on December 22, 2006.

On January 11, 2007, the commission held a public hearing regarding HBWC's Application, at Keonepoko Elementary School Cafeteria (15-890 Kahakai Boulevard in Pahoa, on the island of Hawaii), consistent with the requirements of HRS §§ 269-12(c) and 269-16(f) ("Public Hearing"). At the Public Hearing, HBWC's representative and the Consumer Advocate orally testified and submitted written

¹¹Specifically, the Notice of Public Hearing was published on December 20 and 27, 2006, and January 3 and 10, 2007, in the Garden Island, Hawaii-Tribune Herald, Honolulu Star-Bulletin, The Maui News, and West Hawaii Today.

comments. Numerous ratepayers and members of the general public also provided oral testimonies and, in some cases, provided written comments for the record. HBWC's representative was given an opportunity to provide a rebuttal to the questions and concerns posed by the public. In general, those who provided oral testimonies and submitted written comments opposed HBWC's proposed rate increase or the magnitude of the increase. After all interested individuals were given an opportunity to testify, the commission closed the Public Hearing.

The written testimonies and comments received by the commission during the Public Hearing and various comments received prior to and shortly after the Public Hearing were transmitted to the Parties by commission letters dated January 17, 2007, and February 20, 2007. Oral testimonies presented during the Public Hearing were transcribed and filed with the commission on February 8, 2007.

E.

Stipulation

On February 20, 2007,¹² the Consumer Advocate filed its Direct Testimony, Exhibits, and Workpapers ("Direct Testimony") setting forth its positions and recommendations regarding the Rate Relief Issues.

¹²By letter dated February 22, 2007, the commission approved the Consumer Advocate's request, filed on February 15, 2007, to modify the regulatory schedule of this proceeding allowing it to file its Direct Testimony on February 20, 2007, rather than February 16, 2007, and correspondingly extending the time for HBWC to issue its IRs to the Consumer Advocate from March 2, 2007 to March 5, 2007.

By letter dated and filed on March 2, 2007, HBWC informed the commission that it elected to not issue IRs with respect to the Consumer Advocate's Direct Testimony in order to allow the Parties to focus their attention on resolving disputed issues.

Subsequently, the Parties filed a joint letter on March 27, 2007, informing the commission that they had reached a settlement on their disputed issues and were focusing their attention and respective resources on memorializing their agreements in a stipulation. Additionally, the Parties requested commission approval to further amend the regulatory schedule to allow the Parties to file their Stipulation by April 5, 2007, as opposed to March 30, 2007 ("Extension Request"). By letter dated April 3, 2007, the commission granted the Parties' Extension Request.

On April 4, 2007, the Parties filed their Stipulation "to formally memorialize their proposed global resolution of all of the issues in the subject docket ("Settlement")["¹³ The stipulation is purported to reflect the Parties' "global resolution" of all the issues of this proceeding. In achieving their global resolution, the Parties state, among other things, that the "provisions of this Stipulation are binding as between them with respect to the specific issues and matters to be resolved" in this proceeding, and that the "agreements evidenced in this Stipulation represent compromises by the Parties["¹⁴

¹³See Stipulation at 2.

¹⁴Id. at 8.

The Parties represent that "[e]ach provision of this Stipulation is in consideration and support of all other provisions, and is expressly conditioned upon acceptance by the [c]ommission of the matters expressed in this Stipulation in their entirety."¹⁵ In addition, should the commission decline to adopt portions or all of the agreed-upon matters, set forth in the Stipulation, the "Parties reserve the right to pursue any and all of their respective positions through further negotiations and/or additional filings and proceedings before the [c]ommission."¹⁶

Furthermore, the Parties expressly state that they "understand and acknowledge that the [c]ommission is not bound by this Stipulation between the Parties, and that the Settlement is subject to the review and approval of the [c]ommission."¹⁷

With regards to the above, the commission has stated in past rate case proceedings that "an agreement between the parties in a rate case cannot bind the commission, as the commission has an independent obligation to set fair and just rates and arrive at its own conclusion."¹⁸ The commission's review of the Parties' Stipulation will be conducted under this mandate.

¹⁵Id. at 25.

¹⁶Id.

¹⁷Id. at 2.

¹⁸See In re Pukalani STP Co., LTD., Docket No. 05-0025, Proposed Decision and Order No. 22015, filed on September 7, 2005, at 12 citing In re Hawaiian Electric Co., Inc., 5 Haw. App. 445, 698 P.2d 304 (1985). See also In re Hawaii Water Service Company, Inc., Docket No. 03-0275, Decision and Order No. 21644, filed on February 11, 2005, at 10.

II.

Discussion

HBWC, a public utility with annual gross revenues of less than \$2 million, filed its Application under HRS § 269-16(f). This section of the law streamlines the rate review process for small public utilities such as HBWC. In short, it requires the commission to make every effort to issue its Proposed Decision and Order within six (6) months from the filing date of HBWC'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).

Specifically, section 269-16(f) states, in relevant part:

Notwithstanding any law to the contrary, for public utilities having annual gross revenues of less than \$2,000,000, the commission may make and amend its rules and procedures to provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers. In the determination of the reasonableness of the proposed rates, the commission shall:

. . . .

- (2) Hold a public hearing as prescribed in section 269-12(c) at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The public hearing shall be preceded by proper notice, as prescribed in section 269-12; and
- (3) Make every effort to complete its deliberations and issue a proposed decision and order within

six months from the date the public utility files a completed application with the commission; provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene. If a proposed decision and order is rendered after the six-month period, the commission shall report in writing the reasons therefor to the legislature within thirty days after rendering the proposed decision and order. Prior to the issuance of the commission's proposed decision and order, the parties shall not be entitled to a contested case hearing.

If all parties to the proceeding accept the proposed decision and order, the parties shall not be entitled to a contested case hearing, and section 269-15.5 shall not apply. If the commission permits a person to intervene, the six-month period shall not apply and the commission shall make every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility's completed application was filed, pursuant to subsections (b), (c), and (d).

If a party does not accept the proposed decision and order, either in whole or in part, that party shall give notice of its objection or nonacceptance within the timeframe prescribed by the commission in the proposed decision and order, setting forth the basis for its objection or nonacceptance; provided that the proposed decision and order shall have no force or effect pending the commission's final decision. If notice is filed, the above six-month period shall not apply and the commission shall make every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility's completed application was filed as set forth in subsection (d). Any party that does not accept the proposed decision and order under this paragraph shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing.

Public utilities subject to this subsection shall follow the standard chart of accounts to be approved by the commission for financial reporting purposes.

The public utilities shall file a certified copy of the annual financial statements in addition to an updated chart of accounts used to maintain their financial records with the commission and consumer advocate within ninety days from the end of each calendar or fiscal year, as applicable, unless this timeframe is extended by the commission. The owner, officer, general partner, or authorized agent of the utility shall certify that the reports were prepared in accordance with the standard chart of accounts.

The commission timely issues this Proposed Decision and Order in accordance with HRS § 269-16(f).

A.

Rate Relief Issues

The Parties' Stipulation results in a revenue requirement for HBWC of \$691,294 for the Test Year based on a stipulated 9.0% rate of return on HBWC's stipulated average Test Year rate base of \$672,998. These stipulated figures are achieved through a revenue increase of \$374,134, or approximately 118.0%, over revenues at present rates. According to the Parties, the Stipulation allows HBWC an opportunity to recover its operating expenses and operating income, under the terms of their Settlement. Additionally, the Parties agreed on a rate design which allows for a 2.5-year phase-in of the rate increase to address potential rate shock issues, while, according to the Parties, providing HBWC a reasonable opportunity to earn the Test Year revenue requirement of \$691,294 beginning in the last year of the phase-in period.

Revenues

At present rates, HBWC estimated that its total revenues would be \$317,160 and initially sought a Test Year revenue requirement of \$710,147, at proposed rates. Further, HBWC projected 150 new customers for the Test Year and made other revenue-related estimates.

While accepting HBWC's projected revenues at present rates, the Consumer Advocate, in its Direct Testimony, recommended a Test Year revenue requirement, at proposed rates, of \$669,800. The difference in revenue requirement for the Test Year is the result of the Consumer Advocate: (1) adjusting Test Year rate case and depreciation expenses; (2) reducing Test Year amounts for certain rate base items; and (3) decreasing the overall rate of return from HBWC's proposed 9.5% to the Consumer Advocate's recommended 8.85%.¹⁹

After reaching an agreement on these differing rate items and on the rate design, which are discussed in detail in the sections below, the Parties stipulated to a revenue projection of \$691,294 for the Test Year at proposed rates. Additionally, revenues generated from the collection of various non-recurring charges and fees appear to have been contemplated, agreed-to, and included in the Parties' stipulated revenue estimate, as appropriate, for the Test Year.

Upon review, the commission finds the Parties' agreement on revenues of \$317,160 at present rates and \$691,294

¹⁹See Consumer Advocate's Direct Testimony at 3-4.

at proposed rates for the Test Year, as set forth in the Stipulation, to be reasonable.²⁰

2.

Expenses

(a) Operating Expenses

HBWC initially proposed a Test Year amount of \$523,011 for total operating expenses. The Consumer Advocate accepted all of HBWC's operating expense estimates for the Test Year except for rate case amortization expense. After making a \$23,854 adjustment regarding this cost item, the Consumer Advocate arrived at a Test Year total operating expense projection of \$499,157.

With respect to rate case amortization, HBWC initially proposed a Test Year operating expense amount of \$46,667 derived by amortizing its total rate case expense estimate of \$140,000 over a 3-year period. In contrast, while the Consumer Advocate agreed to a 3-year amortization period, it proposed a total rate case expense amount of \$68,439²¹ arriving at an annual amortized amount of \$22,813. During negotiations, the Parties agreed to \$78,439 in total rate case expenses for this proceeding and agreed to a 2.5 year amortization period due to the acceleration of the completion of HBWC's meter installation program.²²

²⁰See Stipulation, Exhibit A at 1.

²¹See Consumer Advocate's Direct Testimony at 23.

²²Initially, HBWC proposed to complete the meter installation program by the end of 2009; however, it subsequently agreed to complete the program by the end of 2008 in the Change of Control

The Parties represent that use of a 2.5 year amortization period, would allow HBWC "an opportunity to recover the rate case expense for the processing of the instant application prior to the effective date of the new rates using a 2009 test year."²³ Thus, the Parties agreed to a Test Year rate case amortization expense amount of \$31,375.

The following illustrates the Parties' agreements regarding operating expenses for the Test Year.

OPERATING EXPENSE ITEMS	STIPULATED EXPENSES
Electricity	\$184,785
Salaries & Wages	178,264
Employee Taxes and Benefits	38,792
Accounting	10,119
Insurance	17,658
Auto & Truck	11,000
Postage	6,626
Legal & Professional Fess	4,000
Communications	3,000
Office Supplies, Expenses	9,500
Rate Case Amortization	31,375
Repair & Maintenance	<u>12,600</u>
Total Operating Expenses:	\$507,719

The commission finds the Parties' stipulated amounts for operating expenses for the Test Year, as detailed above, to be reasonable.

(b) Depreciation Expense

HBWC proposed a depreciation expense of \$40,215. In contrast, the Consumer Advocate, to be consistent with its recommended adjustments to HBWC's proposed plant in service

proceeding, which the commission approved in Decision and Order No. 23313. Thus, HBWC represented that its next rate application would likely be filed using a 2009 test year as opposed to a 2010 test year.

²³See Stipulation at 12.

estimates, proposed a depreciation expense of \$64,115. Upon negotiations, the Parties resolved their differences regarding plant in service items and, accordingly, agreed to adopt a depreciation expense of \$66,047.

Upon review, the commission finds the Test Year stipulated depreciation expense of \$66,047 to be reasonable.

(c) Taxes Other Than Income Taxes ("TOTIT")

TOTIT is calculated by applying the 5.885% Public Service Company Tax rate and the 0.5% Public Utility Fee rate to the estimated total revenue requirement. In doing so, HBWC derived an estimate of \$45,343 for TOTIT for the Test Year at proposed rates. However, due to differences in Test Year revenue requirement at proposed rates, the Consumer Advocate, in its Direct Testimony, proposed a TOTIT of \$42,767.

In the Stipulation, the Parties resolved their differences regarding all matters, including revenue requirement, and stipulated to a TOTIT amount of \$44,139 at proposed rates for the Test Year. Given the Stipulation, the commission finds reasonable the Parties' stipulated TOTIT amount of \$44,139 for the Test Year.

(d) Income Taxes

Similar to TOTIT, the Parties were in agreement regarding the methodology and rates for federal and state taxes to derive income tax expense for the Test Year. However, differences occurred for this expense category due to differing revenue requirement projections. As with TOTIT, based on the Stipulation resolving all differences between the Parties,

they agreed to income taxes at proposed rates of \$18,444 for the Test Year.

The commission finds reasonable the Parties' stipulation of \$18,444 for income taxes for the Test Year.

3.

Rate Base

HBWC's average rate base calculation is comprised of plant in service, accumulated depreciation, accumulated deferred income taxes ("ADIT"), contributions-in-aid-of-construction ("CIAC"), accumulated amortization of CIAC, and working capital. Initially, HBWC forecasted an average rate base for the Test Year of 728,897. The Consumer Advocate, upon implementing various adjustments to rate base components arrived at a Test Year average rate base of \$636,688. The Parties stipulated to a Test Year average rate base amount of \$672,998 (see details set forth in Exhibit B of the Stipulation) through negotiation of the rate base components as discussed below.

(a) Net Plant in Service

Net plant in service is derived by subtracting accumulated depreciation from plant in service. In their Settlement, the Parties agreed to an average Test Year net plant in service amount of \$740,375.²⁴ The commission finds this amount to be reasonable in this proceeding.

²⁴Any differences in figures between those set forth in the Parties' Stipulation and Exhibits A and B, attached, are due to the rounding of the numbers.

In particular, with regards to plant in service, HBWC initially proposed an amount of \$1,028,760 for the Test Year. For the same period, the Consumer Advocate advanced an average plant in service amount of \$961,169. The Consumer Advocate's figure reflected: (1) the removal of HBWC's restatement of accumulated depreciation expense and reflects a corresponding accumulated deferred tax balance; (2) the removal of HBWC's adjustment to plant in service balances for costs previously expensed which included an adjustment to reflect customer contributions for meter installations; and (3) the removal of certain plant additions expected to be made in 2006 and 2007.²⁵ During settlement discussions, HBWC accepted the Consumer Advocate's adjustments. Thus, the Parties stipulated to a Test Year average plant in service amount of \$961,169.

With regards to Test Year accumulated depreciation, HBWC initially proposed an accumulated depreciation amount of \$211,316 while the Consumer Advocate advanced an amount of \$219,828, which is an amount consistent with and reflecting its proposed changes to HBWC's plant in service calculations. Upon reaching agreement regarding plant in service, the Parties stipulated to a Test Year average accumulated depreciation amount of \$220,794, which is basically the Consumer Advocate's proposed accumulated depreciation amount adjusted for an inadvertent computational error.

In sum, the commission finds the Parties' stipulation for Test Year average plant in service and average accumulated

²⁵See Consumer Advocate's Direct Testimony at 33-34.

depreciation of \$961,169 and \$220,794, respectively, to be reasonable.

(b) ADIT

HBWC initially sought an amount for Test Year ADIT of \$7,184. The Consumer Advocate determined HBWC's proposal for ADIT to be unreasonable under the circumstance²⁶ and proposed a Test Year ADIT of \$0 since "there had been no difference in the depreciation expense reflected for book and income tax purposes."²⁷ During negotiations, the Parties agreed to a Test Year amount for ADIT of \$0.

The commission finds the Parties' agreement of \$0 for Test Year ADIT to be reasonable.

(c) CIAC and Accumulated Amortization of CIAC

HBWC initially proposed a Test Year amount of \$181,005 for CIAC and \$52,281 for accumulated amortization on CIAC. The Consumer Advocate, in its Direct Testimony, proposed a CIAC amount of \$300,000 and an accumulated amortization on CIAC of \$7,500. These amounts reflect the Consumer Advocate's proposed adjustment to HBWC's 2007 plant additions²⁸ and its position that the number of meters that need to be installed in the Test Year to complete the meter installation program is not representative of a normal level of installations in a year.²⁹

²⁶Id. at 35.

²⁷See Stipulation at 16.

²⁸See Consumer Advocate's Direct Testimony at 37.

²⁹Id. at 38.

As a result of the Parties' Stipulation, they agreed to adjust the Consumer Advocate's CIAC figure to \$225,000³⁰ to only reflect contributions received from new customers in 2007. Given this adjustment, amortization of CIAC is also adjusted accordingly. Thus, the Parties stipulated to a Test Year average CIAC amount of \$112,500 (one-half of the \$225,000 added during the Test Year) and, similarly, a Test Year average CIAC amortization amount of \$2,813.

The commission finds Test Year average CIAC and average accumulated amortization of CIAC of \$112,500 and \$2,813, respectively, as stipulated to by the Parties, to be reasonable for this proceeding.

(d) Working Capital

In its Application, HBWC sought an amount of \$47,361 for working capital. The Consumer Advocate, in its Direct Testimony, proposed a working capital amount of \$41,596 which reflects its adjustment to Test Year rate case amortization expense and is consistent with its proposal to exclude TOTIT from the working capital calculation since not doing so would result in an overstatement of working capital requirement, Test Year revenue requirement, and the resulting rates.³¹ During settlement discussions, the Parties ultimately agreed to a working capital amount of \$42,310 for the Test Year

³⁰\$225,000 represents 150 new meter installations at \$1,500 per meter.

³¹See Consumer Advocate's Direct Testimony at 39-40.

The commission finds reasonable the Parties' stipulation of \$42,310 for Test Year working capital.

4.

Rate of Return

Rate of return, also known as the return on rate base or overall weighted cost of capital, is derived from the ratio of debt to equity (i.e. capital structure) and the cost rates for the debt and equity. At the outset, HBWC proposed a rate of return of 9.5%. HBWC's rate of return proposal was based on a hypothetical capital structure consisting of 50.0% debt and 50.0% equity and assumed cost rates of 8.0% for debt and 11.0% for equity.

Contending that there is no support to utilize a 50/50 hypothetical capital structure and that, in its view, HBWC's overall rate of return is being overstated,³² the Consumer Advocate recommended a return on rate base of 8.85%. The Consumer Advocate's recommendation is based on a capital structure consisting of 60.0% debt and 40.0% equity and assumes costs rates of 7.68% and 10.6%, respectively.

For Settlement purposes, the Parties agreed that HBWC is entitled to a 9.0% rate of return. This stipulated figure is based on a capital structure consisting of 55.0% debt and 45.0% equity and cost rates of 8.0% and 10.2%, respectively. The Parties agreed that the stipulated 9.0% figure shall not be deemed to set any precedent that may be applied to them in any

³²Id. at 42.

future regulatory proceedings. Additionally, the Parties note that since they agreed to a 2.5-year phase-in of HBWC's rates, HBWC "is not expected to have the opportunity to earn this 9.0% return until the final year of the phase-in period."³³

Given the Parties' Stipulation, the commission finds the stipulated 9.0% rate of return to be fair.

5.

Rate Design

Originally, HBWC proposed to implement a fixed monthly rate of \$49.24. However, since this rate significantly exceeded its current total water service charge of \$22.00 per month,³⁴ HBWC proposed to phase-in the increase by first charging an interim rate of \$36.00 per month (for a period of 12 months following the commission's decision in this proceeding) and then the final \$49.24 rate.

The Consumer Advocate, in its Direct Testimony, recommended that HBWC charge a fixed monthly rate of \$22.21 and a volumetric rate of \$2.03 per TG. This proposal was intended to better recover the costs of providing service to each customer. However, since HBWC is not able to currently measure the amount of water used by each customer, the Consumer Advocate proposed that HBWC assess a fixed volumetric charge of \$24.70 per month based on the Hawaii County daily water usage standard of

³³See Stipulation at 19.

³⁴The \$22.00 total water service charge is comprised of HBWC's existing base rate of \$12.00 per month plus approximately \$10.00 to account for HBWC's EPAC.

400 gallons for a single family residential customer, until six (6) months after HBWC completes its meter installation program. The Consumer Advocate's rate proposal would result in a total monthly service charge of \$46.91. However, concerned that this rate proposal would result in an immediate increase of over 100% in HBWC's base rate for service, the Consumer Advocate recommended that the increase be phased-in to mitigate the impact on HBWC's customers.³⁵ Specifically, the Consumer Advocate recommended a phase-in of the rate increase to allow HBWC to receive approximately one-fourth of the total rate increase over an 18-month period.³⁶

For settlement purposes, HBWC accepted the Consumer Advocate's rate phase-in schedule. Given the Parties' stipulated Test Year revenue requirement, the Parties agreed to the following rate design structure:

³⁵The Consumer Advocate noted that it believed that a rate increase in the range of 25% constitutes rate shock which it defined as a "regulatory term of art that generally characterizes the event that occurs when prices for essential utility services increase so suddenly and dramatically that the consumer's purchasing behavior is disrupted and hardship may result." See Consumer Advocate's Direct Testimony at 49-50.

³⁶Specifically, the Consumer Advocate recommended that the total rate increase be implemented as follows: (a) one-fourth of the total proposed rate adjustment in the final Decision and Order; (b) an additional one-fourth of the increase to take effect six (6) months after the effective date of the final Decision and Order; (c) the next one-fourth of the increase to take effect one year after the effective date of the final Decision and Order; and (d) the final one-fourth of the increase to take effect eighteen (18) months after the final Decision and Order. Id. at 52.

Customer Class	Present Rate	1 st Phase effective (7/01/07)	2 nd Phase effective (1/01/08)	3 rd Phase effective (7/01/08)	4 th Phase effective (1/01/09)
Residential (Single Family and Condominiums) (monthly service charge per customer)	\$22.00	\$28.73	\$35.24	\$41.76	\$48.06

The Parties also agreed that during the fourth phase the proposed rate shall be a monthly charge of \$48.06, comprised of a "\$23.00 fixed monthly fee and a volumetric charge of \$25.19."³⁷ Furthermore, the Parties stipulated that on July 1, 2009, or six months after the implementation of the fourth phase, HBWC will begin charging its customers a volumetric rate of \$2.07 per TG of use (based on actual water usage) plus the \$23.00 fixed monthly fee. The Parties contend that since the meter installation program would be completed by December 2008, HBWC would provide its customers with meter readings for at least six (6) months (i.e. from January 2009 until June 2009) before charging the volumetric rate so that customers are made aware of their actual water usage and can adjust their water consumption, accordingly.

Upon review, the commission finds reasonable the Parties' stipulation to phase-in the rate increase through four periods, as proposed. However, the commission finds the Parties'

³⁷See Stipulation at 21. For clarity, the commission surmises that the Parties' proposed fixed volumetric charge for the fourth phase would be \$25.06 as opposed to the purported \$25.19 since \$48.06 (the total charge) minus the fixed monthly fee of \$23.00 equals \$25.06. The commission surmises that this calculation issue is immaterial, at this time, since the volumetric portion of the rate for the fourth phase of \$48.06 is essentially a fixed volumetric rate until July 1, 2009, or six (6) months after the fourth phase is implemented.

agreement to begin charging HBWC's customers a volumetric rate of \$2.07 (along with a fixed \$23.00 monthly charge) beginning July 1, 2009, or six (6) months after the fourth phase is implemented, to be unacceptable, at this time. In essence, the Parties expect the commission to approve a volumetric rate during this proceeding, which will not take effect until July 1, 2009, or even later. The proposed volumetric rate is derived by utilizing Hawaii County's daily water usage standard of 400 gallons in substitution for actual usage figures since HBWC currently does not have meters installed for all of its customers. HBWC plans to complete its meter installation program by December 2008³⁸ and, represented, during settlement discussions, that its next rate increase application would likely be filed using a 2009 test year.³⁹ Accordingly, it appears that the stipulated volumetric rate of \$2.07, which the Parties agreed will not take effect until July 1, 2009, or until six (6) months after the completion of the meter installation program may never be effectively implemented or implemented for a short period of time. While the commission appreciates the Parties' efforts in

³⁸Id. HBWC's commitment to complete the meter installation program by December 31, 2008, is consistent with the condition imposed by the commission in the Change in Control proceeding (i.e., Docket No. 2006-0437) wherein the commission required HBWC to complete the program as a condition of its approval of the transaction. See Decision and Order No. 23313 at 23. Originally, HBWC had projected to complete the meter installation program by the end of 2009, and only agreed to expedite completion of the program to December 31, 2008, as a compromise in the Change of Control proceeding since the Consumer Advocate had initially recommended that HBWC complete its meter installation program by December 31, 2007. Id. at 16-18.

³⁹See Stipulation at 12.

attempting to institute a rate structure composed of both a fixed and volumetric component; such a rate structure in this proceeding appears to be premature and inappropriate.

At the start of this proceeding, HBWC testified that approximately 350 meters have already been installed (roughly one-third of HBWC's existing customers).⁴⁰ HBWC initially had planned on installing an additional 30 meters during the remainder of 2006, approximately 300 more meters in 2007, and the remaining 570 meters in 2008 and 2009.⁴¹ Thus, by the end of 2007, over 50% of HBWC's customers should have meters; however, due to its commitment to accelerate its meter installation program and complete it by the end of 2008, it is reasonable to project that this figure would be closer to 60-70%. Additionally, HBWC testified that it would begin taking meter readings in 2007.⁴² Thus, HBWC should have actual usage figures for a majority of its customers by the beginning of 2008. The commission believes that substitute data to estimate actual water usage should only be used when necessary. Thus, rather than approving a volumetric rate in this proceeding, the commission believes that it would be more appropriate to require HBWC to continue charging its customers the \$48.06 monthly charge (implemented during the fourth phase) until a reasonable and more reflective volumetric rate can be determined in HBWC's next rate proceeding. With this in mind, the commission shall require HBWC

⁴⁰See Application, Exhibit MLW-T-100 at 8.

⁴¹Id. at 9.

⁴²Id.

to file for a review of its rates in a rate proceeding six (6) months after it completes its meter installation program or when sufficient data is available for HBWC to propose and support a rate design that includes a volumetric rate component, whichever is earlier.

In sum, the commission approves the Parties' agreement to phase-in the rate increase in four periods, with a modified effective date, as set forth below. Specifically, due to matters discussed in section II.B regarding the Financing Issue, HBWC shall not be authorized to begin charging its increased monthly service charge of \$28.73 (i.e., the first phase of the rate increase) until July 1, 2007, or until the commission issues an order approving the Financing Issue under HRS §§ 269-17 and 269-19, whichever is later.

Customer Class	Present Rate	1 st Phase effective, as modified	2 nd Phase effective (1/01/08)	3 rd Phase effective (7/01/08)	4 th Phase effective (1/01/09)
Residential (Single Family and Condominiums) (monthly service charge per customer)	\$22.00	\$28.73	\$35.24	\$41.76	\$48.06

Additionally, the Parties' agreement to institute a volumetric rate of \$2.07 starting on July 1, 2009, or six (6) months after the implementation of the fourth phase for HBWC's services is denied. Thus, HBWC shall continue charging its customers the \$48.06 monthly charge (implemented during the fourth phase) until a reasonable and more reflective volumetric rate can be determined in HBWC's next rate proceeding. HBWC shall file an application for review of its rates in a rate

proceeding six (6) months after it completes its meter installation program or when sufficient data is available for HBWC to propose and support a rate design that includes a volumetric rate component, whichever is earlier.

6.

Rules and Regulations

In their Stipulation, the Parties agreed to various revisions to HBWC's initially filed Rules and Regulations. The Parties incorporated their stipulated changes and attached a copy of HBWC's revised Rules and Regulations as Exhibit D to its Stipulation. The Parties contend that these Rules and Regulations, as revised, will supersede the Rules and Regulations that were previously filed with the commission for Miller & Lieb. Upon review, the commission finds HBWC's proposed Rules and Regulations, attached as Exhibit D to the Parties' Stipulation, to be reasonable and appropriate. Particular revisions to HBWC's Tariff are summarized below.

(a) Consumer Advocate's Recommended Revisions

- Part I, Rule I, paragraph 2 was amended to read as follows:

In all matters concerning the affairs of the Company any person affected by any action of the Company or by any action of the employee or agents of the Company shall write a letter to the Company, addressed to the President, stating the Customer's grievance and the relief sought. The matter will then be put on the agenda for the next normally scheduled Board of Directors meeting to provide the Customer with assurance as to when the grievance will be heard.

- Part II, Rule II, paragraph 1 was amended to read as follows:

Any prospective Customer whose premises lies within the areas covered by the Company's Certificate of Public Convenience and Necessity ("CPCN") for water service issued by the Public Utilities Commission (as described in Exhibit "A" hereto), may, upon compliance with these Rules and Regulations, obtain water service from the Company provided that the Company has sufficient water supply developed for domestic use, fire protection, and non-potable requirements to take on new or additional service without detriment to those already served.

Additionally, HBWC will include a map of the service territory as Exhibit A to the Rules and Regulations.

- Part II, Rule V, paragraph 1 will include reference to a Standard Form application.
- Part II, Rule VII, paragraph 1 was amended to state that the frequency in which HBWC will render its bills is monthly until such time HBWC determines a need to change the bill frequency.
- Part II, Rule VIII, paragraph 3 (first sentence) was amended to read as follows:

The Customer shall submit any dispute regarding the charges appearing on the bill to the Company in writing no later than twenty (20) days following the Company's deposit of the bill in the United States mail or presentation to the customer.

Specifically, the commission finds the Tariff revisions described above to be reasonable.

(b) Table of Contents and Footer

Additionally, as part of the Stipulation, the Parties agreed that HBWC should update the page numbering on the Table of Contents and revise the information on the footer of each page of HBWC's Rules and Regulations to update HBWC's contact information

and include a reference to the commission's final order in the docket when issued. The commission finds the Parties' agreement with regards to the table of contents and footer of HBWC's Tariff to be reasonable.

(c) Rule XXVIII Electric Power Adjustment Clause ("EPAC")⁴³

The Parties agreed that HBWC's existing EPAC is intended to allow HBWC "to increase or decrease the rates it charges for water service based on any corresponding increase or decrease in the electricity cost charged . . . by Hawaii Electric Light Company Inc. in relation to the base cost of electricity established in this proceeding."⁴⁴ Based on Test Year electricity expense, the Parties further agreed that the base cost of electricity is \$0.8253/TG as opposed to HBWC's current base cost of electricity of \$0.228.⁴⁵ This revised amount is calculated by

⁴³Within the text of the Stipulation, the Parties also refer to the EPAC as an automatic power cost adjustment clause ("APCAC"). Since HBWC initially referred to the clause as EPAC in the Application and made no specific reference to changing the name of the clause in its filings, and since Exhibit D of the Stipulation setting forth the Parties' agreements regarding HBWC's Rules and Regulation refer to it as EPAC, the commission will continue to refer to this clause as EPAC.

⁴⁴See Stipulation at 23-24.

⁴⁵Furthermore, the Parties agree that Act 162, 2006 Session Laws of Hawaii (codified as HRS § 269-16(g)), which requires the commission to examine a utility's fuel adjustment clause by December 31, 2007, or during the utility's next general rate proceeding, to be inapplicable to HBWC's existing EPAC. The Parties proffer that the "automatic fuel rate adjustment clause" referenced in HRS § 269-16(g) pertain to automatic rate adjustment clauses established solely for fuel and purchased energy costs incurred by energy utilities (i.e., electric or gas utilities) rather than EPACs (or APCACs) established by water or wastewater utilities for electricity costs under HRS § 269-16.

utilizing the gallons pumped for 2006 and the Test Year electric expense as set forth below:

Test Year electric cost of \$184,785 divided by 90% of the total gallons pumped in TGs of 248,777 or 223,899 TGs ($248,777 * 90\% = 223,899$) results in a base per TGs of \$0.8253 ($\$184,784 / 223,899 \text{ TGs} = \$0.8253/\text{TGs}$).

The commission finds the Parties' stipulations regarding HBWC's EPAC, set forth in the Stipulation and Rule XXVIII of HBWC's Tariff (i.e., Exhibit D of the Stipulation), to be reasonable.

B.

Financing Issue

In addition to rate relief, HBWC requested commission approval of financing and mortgaging of certain water system improvements, including the drilling and outfitting of a new water production well and associated storage facilities under HRS §§ 269-17 and 269-19. Specifically, HBWC stated, in its Application, that it intends to borrow up to approximately \$800,000 to pay for the cost of the proposed water system improvements. At that time, HBWC represented that it was investigating two separate loan programs both of which are intended to assist small businesses in rural areas.

The first program HBWC is considering is sponsored by the Hawaii Economic Development Corporation ("HEDCO"), a Hawaii non-profit corporation.⁴⁶ Under this program, the HEDCO will lend

⁴⁶HBWC represents that: (1) HEDCO is a Certified Development Company ("CDC") established to contribute to the economic development of its community; and (2) CDCs work with the Small Business Administration ("SBA") and private-sector lenders

40% of the funds at a fixed interest rate, which will be backed by a 100% SBA-guaranteed debenture, allowing the commercial lender (in this case, Bank of Hawaii) to lend 50% of the funds at an interest rate tied to standard commercial lending rates. HBWC represents that the remaining 10% balance of the improvement costs would be borne by HBWC's shareholders (i.e., equity contribution). To secure the financing, HBWC would be required to grant a first mortgage to Bank of Hawaii on all of its utility property, while granting HEDCO a second mortgage on its utility property. ⁴⁷

Alternatively, HBWC is contemplating a loan program sponsored by the U.S. Department of Agriculture ("USDA") Rural Development program. Under this program, a commercial lender (in this case, Bank of Hawaii) would make a direct loan to the program participant, with the loan guaranteed by the USDA. Under USDA program guidelines, the commercial lender would lend up to 80% of the required funds tied to market rates and the remaining 10% through a conventional loan. Similar to the program sponsored by the HEDCO, the USDA loan would also require a mortgage or other lien to be placed on HBWC's utility property.

While HBWC represented that it would provide updates regarding the loan programs and identify the particular loan that to provide financing to small businesses. See Application at 8 n.8.

⁴⁷According to HBWC, since the HEDCO loan program contemplates financing the improvements after construction is completed and the applicable lien periods have run, HBWC intends to obtain advances from family sources to pay for the improvements until the commission approves the proposed financing and the financing disbursements are made. See Application at 8-9.

it would be pursuing, very little detail regarding these loans were placed into the record of the proceeding. The last update on this matter was filed by HBWC on February 2, 2007, supplementing its response to the Consumer Advocate's IR No. 16. At that time, HBWC forwarded Bank of Hawaii's letter dated January 29, 2007, expressing its interest in considering the proposed financing for the water system upgrades.

In the Stipulation, the Parties stated:

1. At time of the filing of the Consumer Advocate's Direct Testimony, HBWC had not secured binding loan commitments from Bank of Hawaii and HEDCO for the financing required to complete the water system improvements.

2. The Consumer Advocate was unable to state its position on the Financing Issue since the specific terms under which the funds would be obtained was unknown.

3. Nonetheless, the Consumer Advocate included the cost of the proposed plant facilities in the Test Year rate base since it recognized that the water system improvements were needed to serve new customers.

4. The new customers to be served by the additional facilities were also recognized in determining HBWC's Test Year revenue requirement, and the potential cost of the proposed financing and the impact of the financing on the capital structure were also considered in determining the Test Year rate of return and the resulting revenue requirement.

5. HBWC provided lenders with updated financial information consistent with the Stipulation upon reaching

agreement with the Consumer Advocate and anticipates that the lenders will provide HBWC with loan commitments shortly, which would provide the Consumer Advocate and the commission with sufficient information necessary to approve its financing request.

At this time, HBWC has not filed the loan commitment papers or any other updates on this issue. Hence, the commission is unable to make its determination regarding the Financing Issue. Under these circumstances, the commission finds it reasonable and appropriate to condition its approval of the rate increase, as set forth in the Parties' Stipulation, subject to the commission's approval of the Financing Issue in a separate and subsequent order in this docket. To this end, HBWC shall file as soon as practicable the loan commitment papers and a written update to support its financing request detailing, at minimum, the terms and conditions of the loans (related to the USDA and HEDCO programs, as applicable) and a narrative to support its request for commission approval under HRS §§ 269-17 and 269-19. Within fifteen (15) days of HBWC's filing, the Consumer Advocate shall file its position statement with regards to the Financing Issue. Given the above, the commission finds it reasonable, at this time, to require that the effective date of the first phase of the HBWC's monthly service charge per customer (the increase from \$22.00 to \$28.73) shall not take effect until July 1, 2007, or until the commission issues an order approving the Financing Issue under HRS §§ 269-17 and 269-19, whichever is later.

III.

Ultimate Findings and Conclusions

Overall, the commission finds that the Parties' Stipulation balances divergent interests and views to achieve a resolution of the various issues of this rate proceeding, which the commission finds, aside from the volumetric rate and effective date of the rate increase, under the circumstances, to be reasonable. However, the commission's approval of the rate increase, as set forth herein, is conditioned upon issuance of a subsequent and separate commission order approving the Financing Issue. In particular, the commission finds and concludes the following:

1. The tariffs, rates, and charges, aside from the volumetric rate of \$2.07, as stipulated to by the Parties, are just and reasonable.

2. The operating revenue and expenses for the Test Year, stipulated to by the Parties and as set forth in Exhibit A, attached, are reasonable.

3. The Parties' stipulated Test Year average depreciated rate base of \$672,998 is reasonable.

4. The Parties' stipulated rate of return for the Test Year of 9.0%, is fair.

5. As stipulated to by the Parties, HBWC is entitled to an increase in revenues of \$374,134, or approximately 118.0%, over revenues at present rates, and total operating revenues of \$691,294 for the Test Year.

6. The proposed changes to HBWC's Tariff, as set forth in Exhibit D of the Stipulation, including changes to HBWC's EPAC calculation, are reasonable.

7. With regards to rate design, the Parties' stipulation to phase-in the approved rate increase through four phases is reasonable; however, the effective date of the first phase shall be the later of July 1, 2007 (as agreed-upon) or upon issuance of a subsequent and separate commission order approving the Financing Issue. Moreover, the Parties' agreement to implement a volumetric rate of \$2.07 starting on July 1, 2009, or six (6) months after the implementation of the fourth phase is neither just nor reasonable.

8. HBWC shall continue charging its customers the \$48.06 monthly service charge (implemented during the fourth phase) until a reasonable and more reflective volumetric rate can be determined in HBWC's next rate proceeding. HBWC shall file an application for review of its rates in a rate proceeding six (6) months after it completes its meter installation program or when sufficient data is available for HBWC to propose and support a rate design that includes a volumetric rate component, whichever is earlier.

9. As soon as practicable, HBWC shall file the loan commitment papers and a written update to support its financing request detailing, at minimum, the terms and conditions regarding the loans (related to the USDA and HEDCO programs, as applicable) and a narrative to support its request for commission approval under HRS §§ 269-17 and 269-19. Within fifteen (15) days of

HBWC's filing, the Consumer Advocate shall file its position statement with regards to the Financing Issue.

IV.

Acceptance or Non-Acceptance

Consistent with HRS § 269-16(f)(3), within ten (10) days from the date of this Proposed Decision and Order, each of the Parties shall notify the commission as to whether it:⁴⁸

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."⁴⁹

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.⁵⁰ 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 parties to the proceeding may waive the

⁴⁸This deadline date is consistent with the deadline to move for reconsideration of a commission decision or order. HAR § 6-61-137.

⁴⁹HRS § 269-16(f)(3).

⁵⁰Id.

contested case hearing."⁵¹ The commission shall make every effort to complete its deliberations and issue its Decision and Order by August 8, 2007.

The underlying purpose of HRS § 269-16(f) is to expedite the ratemaking process for public utilities with annual gross revenues of less than \$2 million. 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 or both of the Parties, the commission is free to review anew the entire docket and all issues therein.

V.

Orders

THE COMMISSION ORDERS:

1. The commission's approval of the increase of additional revenues of \$374,134, or approximately 118.0% over revenues at HBWC's present rates, as set forth in the Stipulation, is conditioned on the issuance of a subsequent and separate commission order approving the Financing Issue. To this end: (A) HBWC shall file the loan commitment papers and a written update to support its financing request detailing, at minimum, the terms and conditions regarding the loans (related to the USDA and HEDCO programs, as applicable) and a narrative to support its request for commission approval under HRS §§ 269-17

⁵¹Id.

and 269-19, as soon as practicable; and (B) within fifteen (15) days of HBWC's filing, the Consumer Advocate shall file its position statement with regards to the Financing Issue.

2. The Parties' Stipulation, filed on April 4, 2007, is approved in part, and denied in part, as explained in this Proposed Decision and Order. In particular: (A) the Parties' agreement to implement a volumetric rate of \$2.07 starting on July 1, 2009, or six (6) months after the implementation of the fourth phase of the rate increase is denied; and (B) the stipulated effective date of the first phase of the rate increase, July 1, 2007, is also denied. Instead, the effective date of the first phase of the rate increase shall be July 1, 2007 (as agreed-upon) or upon issuance of a subsequent and separate commission order approving the Financing Issue, whichever is later.

3. HBWC may increase its rates to produce additional revenues of \$374,134, or approximately 118.0%, over revenues at present rates, as shown on Exhibit A, attached, representing an increase in HBWC's revenue requirement to \$691,294 for the Test Year based on a stipulated 9.0% rate of return on HBWC's stipulated average rate base for the Test Year. However, the effective date of the rate increase will be consistent with the commission's determination set forth in ordering paragraphs nos. 1 and 2, above.

4. After implementation of the fourth phase, HBWC shall continue charging its customers the \$48.06 monthly service charge until a reasonable and more reflective volumetric rate can

be determined in HBWC's next rate proceeding. Accordingly, HBWC shall file an application for review of its rates in a rate proceeding six (6) months after it completes its meter installation program or when sufficient data is available for HBWC to propose and support a rate design that includes a volumetric rate, whichever is earlier.

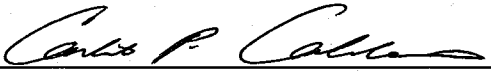
5. HBWC shall promptly file its revised tariff sheets and rate schedules for the commission's review and approval, consistent with the commission's decisions set forth in this Proposed Decision and Order, with copies served upon the Consumer Advocate. HBWC's revised tariff sheets and rate schedules, shall take effect upon the commission's approval of said filings.

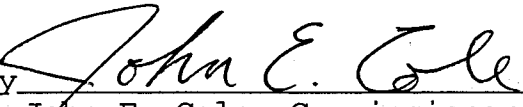
6. Within ten (10) days from the date of this Proposed Decision and Order, each of the Parties shall notify the commission as to whether it accepts, in toto, or does not accept, in whole or in part, this Proposed Decision and Order, consistent with Section IV, above. A party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record.

7. The failure to comply with any of the requirements noted in the ordering paragraphs, above, may constitute cause to void this Proposed Decision and Order, and may result in further regulatory action as authorized by the laws of the State of Hawaii.

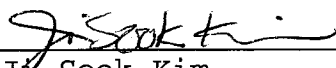
DONE at Honolulu, Hawaii MAY - 8 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

2006-0442/ej

DOCKET NO. 2006-0442
MILLER AND LIEB WATER CO., INC.
nka HAWAIIAN BEACHES WATER COMPANY, INC.
REVENUE REQUIREMENT
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Additional Amount	Proposed Rates
REVENUES			
Residential Meter	\$ 171,360	516,934	\$ 688,294
APCAC	142,800	(142,800)	-
New Service	2,000	-	2,000
Finance Charges Income	1,000	-	\$ 1,000
Total Operating Revenues	<u>\$ 317,160</u>	<u>\$ 374,134</u>	<u>\$ 691,294</u>
OPERATING & MAINT. EXPENSES			
Electricity	\$ 184,785		\$ 184,785
Salaries and Wages	178,264		178,264
Employee Taxes and Benefits	38,792		38,792
Accounting	10,119		10,119
Insurance	17,658		17,658
Auto and Truck	11,000		11,000
Postage	6,626		6,626
Legal & Professional Fees	4,000		4,000
Communications	3,000		3,000
Office Supplies, Expense	9,500		9,500
Rate Case Amortization	31,375		31,375
Repairs and Maintenance	12,600		12,600
Total O & M Expenses	<u>\$ 507,719</u>		<u>\$ 507,719</u>
Depreciation	\$ 66,047		\$ 66,047
Amortization of CIAC	(5,625)		(5,625)
TOTIT	20,251	23,888	44,139
Income Taxes	-	18,444	18,444
Net Operating Expense	<u>\$ 80,673</u>	<u>\$ 42,332</u>	<u>\$ 123,005</u>
Net Operating Income (Loss)	<u>\$ (271,232)</u>	<u>\$ 331,802</u>	<u>\$ 60,570</u>
Average Rate Base	<u>\$ 672,998</u>		<u>\$ 672,998</u>
Return on Rate Base	<u>-40.30%</u>		<u>9.00%</u>

DOCKET NO. 2006-0442
MILLER AND LIEB WATER CO., INC.
nka HAWAIIAN BEACHES WATER COMPANY, INC.
REVENUE TAXES
TEST YEAR ENDED DECEMBER 31, 2007

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Adjustments</u>	<u>Proposed Rates</u>
Total Operating Revenues		<u>\$ 317,160</u>	<u>\$ 374,134</u>	<u>\$ 691,294</u>
Public Company Service Tax	5.885%	18,665	22,018	40,683
Public Utility Fee	0.500%	<u>1,586</u>	<u>1,871</u>	<u>3,456</u>
Total Revenue Taxes	6.385%	<u>\$ 20,251</u>	<u>\$ 23,888</u>	<u>\$ 44,139</u>

DOCKET NO. 2006-0442
MILLER AND LIEB WATER CO., INC.
nka HAWAIIAN BEACHES WATER COMPANY, INC.
INCOME TAX EXPENSE
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Proposed Rates
REVENUES		
Residential Meter	\$ 171,360	\$ 688,294
APCAC	142,800	-
New Service	2,000	2,000
Finance Charges Income	1,000	1,000
Total Operating Revenues	<u>\$ 317,160</u>	<u>\$ 691,294</u>
OPERATING & MAINT. EXPENSES		
Electricity	\$ 184,785	\$ 184,785
Salaries and Wages	178,264	178,264
Employee Taxes and Benefits	38,792	38,792
Accounting	10,119	10,119
Insurance	17,658	17,658
Auto and Truck	11,000	11,000
Postage	6,626	6,626
Legal & Professional Fees	4,000	4,000
Communications	3,000	3,000
Office Supplies, Expense	9,500	9,500
Rate Case Amortization	31,375	31,375
Repairs and Maintenance	12,600	12,600
Total O & M Expenses	<u>\$ 507,719</u>	<u>\$ 507,719</u>
Depreciation	\$ 66,047	\$ 66,047
Amortization of CIAC	(5,625)	(5,625)
TOTIT	20,251	44,139
Net Operating Expense	<u>\$ 80,673</u>	<u>\$ 104,561</u>
Taxable Income	<u>\$ (271,232)</u>	<u>\$ 79,014</u>
Income Tax Provision		
State Tax Provision	\$ -	\$ 3,917
Federal Tax Provision	<u>0</u>	<u>14,527</u>
Income Tax Expense	<u><u>\$ -</u></u>	<u><u>\$ 18,444</u></u>

DOCKET NO. 2006-0442
MILLER AND LIEB WATER CO., INC.
nka HAWAIIAN BEACHES WATER COMPANY, INC.
AVERAGE RATE BASE
TEST YEAR ENDED DECEMBER 31, 2007

	<u>At</u> <u>12/31/2006</u>	<u>At</u> <u>12/31/2007</u>	<u>Average</u>
Description			
Plant in Service	\$ 310,169	\$ 1,612,169	
Accum. Depreciation	<u>187,770</u>	<u>253,817</u>	
Net-Plant-in-Service	\$ 122,399	\$ 1,358,352	\$ 740,376
Deduct:			
Customer Deposits	\$ -	\$ -	
CIAC	-	(225,000)	
Accumulated Amortization of CIAC		5,625	
Accumulated Deferred Income Tax	<u>-</u>	<u>-</u>	
Subtotal	\$ -	\$ (219,375)	\$ (109,688)
 Average			 \$ 630,688
Working Cash at Present Rates			<u>42,310</u>
Rate Base at Present and Proposed Rates			<u><u>\$ 672,998</u></u>

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Proposed Decision and Order No. 23423 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

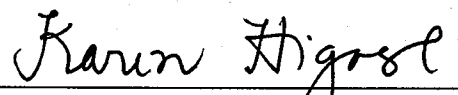
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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Karen Higashi

DATED: MAY - 8 2007