

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

LAUNIUPOKO WATER COMPANY, LLC)

DOCKET NO. 2006-0505

For Review and Approval of Rate)
Increases and Revised Rate)
Schedules.)
_____)

PROPOSED DECISION AND ORDER NO. 23523

Filed June 29, 2007

At 8 o'clock A.M.

Karen Higashi

Chief Clerk of the Commission

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DEPT. OF COMMERCE AND
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STATE OF HAWAII

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

Karen Higashi

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(Docket No. 2006-0505)

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PROPOSED DECISION AND ORDER

By this Proposed Decision and Order, the commission approves an increase in additional revenues of \$42,248, or approximately 35.15%, over revenues at present rates, for LAUNIUPOKO WATER COMPANY, LLC ("LWC"), based on a total revenue requirement of \$162,424 for the test year ending December 31, 2007 ("Test Year"). In doing so, the commission also approves the "Stipulation of Settlement Agreement" filed by LWC and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate")¹ on May 25, 2007 ("Stipulation"),² as described herein.

¹The Consumer Advocate is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. LWC and the Consumer Advocate, the sole parties to this proceeding, are hereafter collectively referred to as the "Parties."

²By letter dated and filed on June 18, 2007, the Parties informed the commission that the Stipulation contained mislabeling errors and submitted two replacement pages.

I.

Background

A.

LWC

LWC is a Hawaii limited liability company and a public utility as defined by HRS § 269-1³ and, thus, is regulated by the commission under Chapter 269, HRS. LWC is authorized by the commission to provide utility water services within the service territory of West Maui, Hawaii on the island of Maui.

LWC currently serves approximately 178 customers within its authorized service territory and charges its customers a monthly water service (or use) charge⁴ of \$1.42 per 1,000 gallons ("TGs") of use up to 10,000 gallons; \$1.91 per TGs of use from 10,001 gallons up to 25,000 gallons; and \$2.25 per TGs of use over 25,000 gallons. Aside from the monthly water service (or use) charge, LWC also assesses its customers a monthly standby meter charge based upon meter size ranging from \$20 to \$100.

³LWC received commission authority to provide water service as a public utility and approval of its initial rates for service in 2003. See In re Launiupoko Water Company, LLC, Docket No. 02-0196, Decision and Order No. 20274, filed on June 27, 2003.

⁴This charge is also referred to as LWC's water consumption charge. The Parties appear to refer to this charge as "water service charge," "potable water use charge," "water use charge," and "water consumption charge" interchangeably throughout their Stipulation and in other documents filed with the commission.

B.

LWC's Application⁵

On December 29, 2006, LWC filed its Application for commission approval of, among other things, a general rate increase of \$45,321, or approximately 37.77% over revenues at present rates, pursuant to HRS § 269-16. The requested increase is based on LWC's initial estimated total revenue requirement of \$165,328 for the Test Year.

In its Application, LWC proposes to increase its water service (or use) rates and impose certain new charges as follows:

	Present Rates	Proposed Rates
Water Service Charge (Usage/Month):		
Per thousand gallons up to 10,000 gallons	\$1.42	\$2.42
Per thousand gallons from 10,001 up to 25,000 gallons	\$1.91	\$2.91
Per thousand gallons over 25,000 gallons	\$2.25	\$3.25
Private Fire Protection Charge: (Connection/Month)		
Hydrants	---	\$3.00
Stand pipes	---	\$2.00
Other	---	\$2.50 (per inch diameter of feeder main)

⁵LWC filed its application on December 29, 2006, and attached various exhibits; the testimonies of Mr. Glenn Tremble (designated as T-1) and Mr. Walter Matsuno (designated as T-2); a verification; and a certificate of service (collectively, "Application"). Copies of the Application were served on the Consumer Advocate.

LWC also requested commission approval to: (1) establish an automatic power cost adjustment charge ("APCAC") to account for the cost of electricity; (2) establish an operating reserve fund; and (3) amend its rules and regulations governing water service ("Tariff" and "Rules and Regulations").

Furthermore, with regard to its Application, LWC requested, pursuant to HAR § 6-61-92, that its unaudited financial statements, submitted with its Application, be accepted in lieu of audited financial statements ("Waiver Request").

On January 11, 2007, the Consumer Advocate filed its Statement of Position Regarding Completeness of Application, stating that it does not object to the completeness of LWC's Application. The commission issued Order No. 23221 on January 26, 2007, acknowledging the filing date of LWC's complete application as December 29, 2006, and approving LWC's Waiver Request. Additionally, the commission required the Parties to begin discovery without delay and submit a proposed stipulated procedural order within thirty days of the date of the issuance of Order No. 23221.

C.

Issues

On February 9, 2007, the Parties timely filed their proposed Stipulated Procedural Order setting forth their proposed issues and a regulatory schedule to govern the proceedings in this docket. On February 27, 2007, the commission issued Order

No. 23279 adopting the Stipulated Procedural Order with certain modifications.⁶

The issues in this proceeding, as set forth in the Parties' Stipulated Procedural Order as adopted by Order No. 23279, are as follows:

1. Is LWC'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 rate of return requested fair?

⁶In response to the commission's order that the Parties begin discovery without delay, the Consumer Advocate issued LWC information requests ("IRs") on January 30, 2007, for which LWC filed responses on February 20, 2007. On March 7, 2007, the Consumer Advocate issued supplemental IRs for which LWC provided responses on March 28, 2007. LWC filed revisions to certain previously filed exhibits on March 8, 2007, to clarify the record.

D.

Public Hearing

In accordance with HRS §§ 1-28.5 and 269-16(c), the commission published its Notice of Public Hearing in various newspapers statewide.⁷ By letter dated and filed on February 20, 2007, LWC informed the commission that it notified all of its customers of its proposed rate increase and related requests and the upcoming public hearing through a notice mailed on February 15, 2007.

On February 28, 2007, the commission held a public hearing on LWC's Application, at Maui Waena Intermediate School Cafeteria (795 Onehee Avenue, on the island of Maui), consistent with the requirements of HRS §§ 269-12(c) and 269-16(f) ("Public Hearing"). At the Public Hearing, LWC's representative and the Consumer Advocate orally testified and the Consumer Advocate submitted written testimony. A number of ratepayers and members of the general public also provided oral testimonies and, in some cases, provided written comments for the record. LWC's representative was given an opportunity to respond to the questions and concerns posed by members of the public. In general, those who provided oral testimonies and submitted written comments expressed concerns with various aspects of LWC's proposed rate increase. After all interested individuals were

⁷Specifically, the Notice of Public Hearing was published on February 6, 13, 20 and 27, 2007, in the Garden Island, Hawaii-Tribune Herald, Honolulu Star-Bulletin, The Maui News, and West Hawaii Today.

given an opportunity to testify, the commission closed the Public Hearing.

The written testimonies and comments received by the commission prior to and at the Public Hearing were transmitted to the Parties by commission letter dated March 28, 2007. Oral testimonies presented during the Public Hearing were transcribed and filed with the commission on April 10, 2007.

E.

Stipulation

On April 20, 2007, the Consumer Advocate filed its Direct Testimony and Exhibits ("Direct Testimony") setting forth its positions and recommendations on LWC's rate increase request.

LWC filed its Rebuttal Testimonies and Exhibits on May 15, 2007 ("Rebuttal Testimony"). Soon thereafter, on May 22, 2007, LWC filed a Motion to Withdraw Portions of [the] Rebuttal Testimony Filed on May 15, 2007 ("LWC's Motion to Withdraw").⁸

Subsequently, on May 25, 2007, the Parties filed their Stipulation "to formally memorialize their proposed global

⁸In support of its Motion to Withdraw, LWC argues that portions of its Rebuttal Testimony no longer accurately represent its position given its settlement with the Consumer Advocate (i.e., the Stipulation). While the commission understands LWC's change in position, the commission is not convinced that a withdrawal of certain portions of LWC's Rebuttal Testimony is necessary or appropriate. While LWC's position, as set forth in its Rebuttal Testimony, may conflict with the Parties' Stipulation, the Stipulation effectively supplants and supersedes the Rebuttal Testimony since the Stipulation was filed after the Rebuttal Testimony. Thus, the commission denies LWC's Motion to Withdraw.

resolution of all of the issues in the subject docket[.]”⁹ In achieving their global resolution, the Parties state, among other things, that the “provisions of this Stipulation are binding with respect to the resolution of the specific issues and matters of disagreement” in this proceeding, and that the “agreements evidenced in this Stipulation represent compromises by the Parties to fully and finally resolve all issues in the subject docket[.]”¹⁰ 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.”¹¹

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.”¹² The commission’s review of the Parties’ Stipulation will be conducted under this mandate.

⁹See Stipulation at 1.

¹⁰Id. at 5.

¹¹Id. at 20.

¹²See 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

LWC, 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 LWC. In short, this provision requires the commission to make every effort to issue its Proposed Decision and Order within six months from the filing date of LWC'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.

HRS § 269-16(f).

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

A.

Revenues

The Parties' Stipulation results in a revenue requirement for LWC of \$162,424 for the Test Year. This stipulated figure is achieved through a revenue increase of \$42,248, or approximately 35.15%, over revenues at present rates.

LWC's revenues are derived from: (a) monthly potable water service (or use) charges; and (b) monthly standby meter charges based on meter size. In its Application, LWC proposed to establish monthly fire protection charges based on the size of the hydrants, stand pipes, or other form of connection. Initially, LWC proposed Test Year revenue projections at present rates of \$120,176 and proposed rates of \$165,020.¹³

While accepting LWC's projected revenues at present rates, the Consumer Advocate, in its Direct Testimony, asserted that LWC's Test Year revenues at proposed rates were overstated¹⁴

¹³See Application, Exhibit LWC 12, 3rd Revised.

¹⁴See Consumer Advocate's Direct Testimony at 19.

and recommended a Test Year revenue requirement, at proposed rates, of \$147,005.¹⁵ Basically, the difference in revenue requirement for the Test Year is due to differing tax projections. Additionally, in making its recommendations, the Consumer Advocate noted that LWC has no approved rate base and, as such, should have no associated depreciation or return on rate base. It contended that LWC's revenue requirement should provide LWC an opportunity to only recover its operating expenses and taxes other than income taxes.

Upon negotiation, the Parties stipulated to a Test Year total operating revenue projection of \$162,424 at proposed rates. As set forth in Exhibit A of its Stipulation, this stipulated figure is derived from \$68,944 in monthly potable service (or use) charges, \$90,096 in monthly standby meter charges, and \$3,384 from fire protection meter charges.

Upon review, the commission finds the Parties' agreement on revenue requirements of \$120,176 at present rates and \$162,424 at proposed rates for the Test Year, as set forth in the Stipulation, to be reasonable.¹⁶

¹⁵Id. at 21.

¹⁶See Stipulation, Exhibit A at 1.

B.

Expenses

1.

Operating Expenses

LWC initially projected a Test Year amount of \$137,619 for total operating expenses.¹⁷ In its Direct Testimony, the Consumer Advocate accepted all of LWC's operating expense projections for the Test Year. However, LWC, in its Rebuttal Testimony, proposed three adjustments which would increase its Test Year operating expenses. First, LWC proposed to increase its Test Year labor expense projection by \$1,200 resulting in a Test Year projection for this cost category of \$12,796. Second, LWC proposed an increase of \$6,400 in its Test Year license expense estimate resulting in a Test Year projection of \$9,630. Finally, LWC proposed an increase of \$11,234 in its Test Year consultants-rate case expense estimate resulting in a Test Year estimate of \$17,034 for this cost category.

During settlement discussions, the Parties agreed to a total amount of \$152,053 for LWC's Test Year operating expenses. In particular, with regards to the Test Year estimate for labor expense, LWC proposed to increase its initial estimate by \$1,200 to account for anticipated raises to be awarded to "key employees" necessary for the operations of the company during 2007; however, the Consumer Advocate expressed concern that the "additional \$1,200 in labor costs may result in an unreasonable

¹⁷See Application, Exhibit LWC 12, 3rd Revised.

annual increase in compensation for rate setting purposes."¹⁸ Accordingly, the Parties agreed to not reflect the additional \$1,200 in labor cost and agreed to a labor expense projection of \$11,596.

With regards to LWC's license expense projection, LWC proposed to increase its earlier estimate by \$6,400 to account for the costs associated with the certification of two additional employees to become Distribution System Operators at Level 1. The Parties agreed to reflect an additional \$3,200 for the certification of one employee and a license expense projection of \$6,430 for the Test Year.

Finally, with regards to consultants-rate case expense, in its Rebuttal Testimony, LWC proposed to increase its initial projection of \$5,800 (total rate case expense of \$29,000 amortized over a five year period) by an additional \$11,234 to recover costs incurred for additional work necessary in the instant proceeding; and to reflect an amortized period of three years as opposed to five. The shorter amortized period is based on LWC's anticipation that it may need to file for another rate increase to cover rising expenses in the next three years. Specifically, LWC represents that it received notice that its office rent will be increased by 40% beginning in January 2008. Based on the additional information presented by LWC in its Rebuttal Testimony, the Consumer Advocate agreed to reflect the revised Test Year estimate for consultants-rate case expense of

¹⁸See Stipulation at 9.

\$17,034 in the calculation of LWC's Test Year revenue requirement.¹⁹

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

OPERATING EXPENSE ITEMS	STIPULATED EXPENSES
Electricity	\$ 42,687
Well Maint - Well #2	5,396
Daily Testing	15,085
Supplies & Materials	3,913
Meter Repair	102
System Maintenance - Pural	867
Labor	11,596
Baseyard Use Fee	5,580
Equip Rental	928
Installation Supplies	4,489
Installation Labor	1,488
Auto Expense	4,948
Consulting	4,533
Monthly Reading	944
Education/License	6,430
Accounting	6,142
Bank Svc Charges	59
Data Entry/Billing	7,558
Dues	171
Insurance	2,838
Legal Fees	0
Office Equipment Rental	2,180
Office Rent	6,228
Postage & Delivery	348
Telephone	509
Consultants-Rate Case	<u>17,034</u>

Total Operating Expenses: \$152,053

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

¹⁹Total rate case expense of \$51,100 amortized over three years (i.e., $\$51,100 / 3 = \$17,034$).

2.

Income Taxes

LWC originally proposed, in its Application, revenues that were greater than the projected Test Year operating expenses and revenue tax expense. As a result, LWC recognized income taxes in its Test Year revenue requirement projection. The Consumer Advocate, in its Direct Testimony, argued that LWC's Test Year revenue requirement should not have included income taxes since LWC has no rate base. Thus, according to the Consumer Advocate, LWC's revenue requirement "should provide an opportunity to only recover its test year operating expenses and taxes other than income taxes which should result in no residual net income,"²⁰ and stated that there should be no allowance for income taxes.²¹ In the Stipulation, the Parties appear to agree that there should be no provision for income taxes in the calculation of LWC's Test Year revenue requirement.

The Parties' agreement to not provide an allowance for income taxes is, under the particular facts of this proceeding, appropriate and reasonable.

3.

Taxes Other Than Income Taxes ("TOTIT")

TOTIT (or revenue taxes) 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. The

²⁰See Consumer Advocate's Direct Testimony at 20.

²¹Id.

Parties utilized the same tax rates and methodology in computing Test Year projections for TOTIT. The Parties' differences in Test Year revenue requirement at proposed rates resulted in differing Test Year TOTIT amounts as initially set forth in LWC's Application and the Consumer Advocate's Direct Testimony. During settlement discussions, the Parties resolved their differences regarding all matters, including revenue requirement, and stipulated to TOTIT amounts of \$7,673 and \$10,371 at present and proposed rates for the Test Year, respectively.

The commission finds reasonable the Parties' stipulated TOTIT (or revenue tax) amounts of \$7,673 and \$10,371 at present and proposed rates, respectively, for the Test Year.

C.

Operating Reserve

LWC originally sought commission approval to collect \$1.3818 per TGs from its customers to establish an operating reserve to pay for significant repairs, replacements, and unusual and extraordinary operating contingencies over its normal maintenance requirements. According to LWC, its request was based on comments made by the commission in Decision and Order No. 16054 filed in Docket No. 96-0081, wherein the commission "notes that an operating reserve is appropriate where, as here, the utility is small with a narrow margin of profit and

insubstantial rate base that is incapable of providing support in cases of extraordinary contingencies[.]”²²

According to the Parties, LWC withdrew its request to establish an operating reserve in this proceeding after discussions with the Consumer Advocate concerning LWC’s long term financial viability if operating reserve funds were used to finance plant additions or major repair costs.²³ The withdrawal of LWC’s request for an operating reserve, under these circumstances, appears reasonable.

D.

Rate Design

In its Application, LWC originally sought to implement its rate increase through an increase in its present monthly water service (or use) rates and the establishment of three new monthly charges for fire protection based on the type of connection. LWC did not seek to increase its monthly standby meter charges. LWC’s proposed rate design is set forth in Section I.B, above.²⁴

The Consumer Advocate, however, recommended that LWC recover its Test Year revenue requirement through increases in both the monthly standby meter charges and monthly water service (or use) rates. In developing the proposed rates, the Consumer

²²See Application, Exhibit LWC 18-T1, Testimony of Glenn Tremble at 10 (internal quotes omitted).

²³See Stipulation at 12.

²⁴See also Application, Exhibits LWC 7 and LWC 8.

Advocate sought to have the monthly standby meter charges recover LWC's Test Year fixed operating costs. The Consumer Advocate recommended that these costs be allocated to differing meter rate categories serving customers in the Test Year to derive its monthly standby meter charges. Then, upon review of LWC's proposed monthly fire protection service charges, the Consumer Advocate determined that LWC's proposed rates would produce revenues close to the estimated hydrant maintenance costs of \$30.00; thus, it did not propose an adjustment to LWC's monthly rates for fire protection service and recognized these revenues in developing the monthly water service (or use) rates. Lastly, the Consumer Advocate determined the monthly water service (or use) rates, which are intended to recover LWC's Test Year variable expenses, less the revenues produced from the monthly fire protection charges for the Test Year. The Consumer Advocate's proposed rates are set forth in CA-105 of its Direct Testimony.

With regards to rate design, the Parties agreed to adopt the Consumer Advocate's methodology to determine the rates that would provide LWC with an opportunity to recover its Test Year revenue requirement. The Parties' agreement regarding rate design is discussed in detail in the paragraphs below.

Specifically, for LWC's monthly standby meter charges, the Parties' agreed upon charges represent an average increase of approximately 73% over present monthly standby meter charges. These charges are intended to recover LWC's Test Year fixed

operating expenses of \$90,074.²⁵ With regards to these stipulated rates, the Consumer Advocate acknowledged that in prior proceedings it recommended that a phase-in be considered when the commission adopts a revenue requirement that would result in an increase greater than 25% of the rates charged for regulated services. In this case, however, while the percentage increase in the stipulated monthly standby meter charge would exceed the 25% threshold, the dollar magnitude of the increase does not appear to present a concern for LWC's customers. For instance, "[a]t the agreed upon proposed rates, the customers would see an increase of \$15, \$18, and \$22 per month, or an annual increase of \$180, \$216, and \$264 for the 5/8, 3/4, and 1 inch meters, respectively in the monthly [standby] meter charges."²⁶ According to the Parties, the magnitude of the increase is not expected to present a financial hardship for LWC's customers since there is no affordable or low income housing within LWC's service territory requiring a phase-in of rates.

Moreover, the Parties note that there are no customers served by meters larger than 1 inch in the Test Year. Thus, the Consumer Advocate did not propose any rates for these meters in its Direct Testimony. Additionally, the Parties represent that if such rates were developed using the Test Year fixed operating costs, LWC would not have an opportunity to recover its Test Year

²⁵The Parties note that the monthly standby meter charge revenue at proposed rates is \$22 more than the fixed operating expenses because the monthly charge was rounded to the nearest dollar. See Stipulation at 15 n.6.

²⁶Id. at 15.

fixed operating costs from its Test Year customer base. Nonetheless, during settlement discussions, the Parties agreed that higher monthly rates should be established for meters that are sized between 1 1/2 to 6 inches since the Parties' stipulated rates for the 5/8, 3/4, and 1 inch meters are higher than the present rates for the 1 1/2 to 4 inch meters. This factor raised concerns since LWC's existing customers may seek to change their existing meters to the larger sized meters in an effort to avoid having to pay the Parties' stipulated monthly standby meter charge associated with the meters that currently serve the customer. This concern is amplified since LWC does not have an authorized meter installation charge. The Parties recognize that this situation would not encourage water conservation since customers served by larger sized meters are expected to have higher demand for potable water. The Parties support the encouragement of potable water conservation efforts, especially on Maui where the scarcity of potable water is well recognized. Accordingly, the Parties agreed to increase the monthly standby meter charges for meters sized between 1 1/2 to 6 inches in relative proportion to the stipulated monthly standby meter charges.²⁷ In sum, the Parties agreed to the following monthly standby meter charges:

²⁷The Parties note that if LWC subsequently has customers served by these larger sized meters, the commission can monitor the revenues through review of LWC's financial statements which are filed annually. The Parties surmise that should LWC realize revenues that far exceed LWC's operating expenses, the commission has the authority to readjust the rates established in the instant proceeding through an investigation or an Order to Show Cause proceeding.

Meter Size	Stipulated Rate
5/8 Inch Meter	\$35
3/4 Inch Meter	\$43
1 Inch Meter	\$52
1 ½ Inch Meter	\$57
2 Inch Meter	\$62
3 Inch Meter	\$67
4 Inch Meter	\$72
6 Inch Meter	\$85
Over 6 Inches	\$100

LWC's monthly water service (or use) charges are intended to recover LWC's Test Year variable expense of \$72,350, less the hydrant revenues of \$3,384 (i.e., \$68,966).²⁸ The Parties agreed that the "Test Year revenues at present rates from water used in Blocks I and II were used to determine the amount of variable expenses to be recovered"²⁹ in the monthly water service (or use) charge and also agreed that Block III should be slightly increased to maintain the relationship that currently exists regarding the present volumetric rates. Moreover, the slight increase agreed to between the Parties regarding Block III

²⁸The Parties note that the \$22 variance between the \$68,944 water service revenues at proposed rates and the \$68,966 amount is due to the rounding of certain figures. See Stipulation at 17 n.9.

²⁹Id. at 17.

rates is intended to ensure that LWC's "customers minimize their use of potable water and thus encourage conservation of this valuable resource."³⁰ As such, the Parties agreed to the following Test Year monthly service (or use) rates:

	Present Rate	Proposed Rate	Dollar Increase	% Change
Block I - Per TGs up to 10,000 Gallons	\$1.42	\$1.43	\$0.01	0.7%
Block II - Per TGs from 10,001 to 25,000 Gallons	\$1.91	\$1.93	\$0.02	1.1%
Block III - Per TGs over 25,000 Gallons	\$2.25	\$2.31	\$0.06	2.7%

The commission finds the Parties' stipulated rate design, as discussed above, to be reasonable. The Parties' agreed upon rate design should provide LWC a reasonable opportunity to earn its Test Year revenue requirement of \$162,424. In addition, the Parties' stipulated rate design appears to have been crafted to encourage LWC's customers to conserve potable water. As set forth in LWC's Application, LWC "recognizes that water is a valuable commodity and it needs to do everything in its power to prudently manage the use of this resource."³¹

³⁰Id. at 18.

³¹See Application at 4.

E.

Automatic Power Cost Adjustment Charge ("APCAC")

LWC represents that the "cost of electricity has increased significantly and . . . [LWC] expects it to continue to increase."³² As such, LWC proposes to establish an APCAC³³ in this proceeding with a power cost adjustment factor (or base cost of electricity) of \$1.0296 per TGs.³⁴ LWC's proposed APCAC is designed to allow it to increase or decrease the rate it charges for water service based on any corresponding increase or decrease in the electricity cost charged to LWC by Maui Electric Company, Limited in relation to the base cost of electricity established in this proceeding.

According to the Consumer Advocate, power cost adjustment clauses are intended to allow a utility to timely recover the change in the per kilowatt hour price of electricity in years between rate case filings to mitigate the impact of such price changes on the electricity expense incurred by the utility.³⁵ As such, the Consumer Advocate stated that it "finds

³²Id. Exhibit LWC 18-T1, Testimony of Glenn Tremble at 12.

³³Throughout this proceeding, the Parties referred to this charge by various terms. For example, LWC referred to it as a "power cost adjustment clause" on page 5 of its Application while the Parties on page 18 of their Stipulation referred to it as a "Power Adjustment Clause." However, in Exhibit C of the Stipulation, which represents the Parties' agreements on LWC's Rules and Regulations, the Parties refer to this charge as an APCAC. For simplicity and consistency, the commission will refer to it as an APCAC.

³⁴See Application, Exhibit LWC 6.

³⁵See Consumer Advocate's Direct Testimony at 16.

the development and application of LWC's proposed . . . [APCAC] to be reasonable and consistent with" previously approved commission filings.³⁶

During settlement negotiations, the Parties agreed that the establishment of an APCAC is appropriate in this proceeding and stipulated to a base cost of electricity of \$1.0296/TGs. The Parties calculated this figure by using the gallons pumped for the year 2006 and the Test Year electric expense as set forth in the following calculation:

Test Year Electric Cost of \$42,687 divided by the total gallons of water sold in thousand gallons of 41,461 results in a base per thousand gallons of \$1.0296.³⁷

Here, the commission finds reasonable the Parties' stipulations regarding LWC's APCAC. In short, the commission approves the establishment and the stipulated methodology of LWC's APCAC. Notably, the commission has previously approved the establishment of power cost adjustment clauses by other utilities.³⁸

³⁶Id. at 18.

³⁷See Stipulation at 18-19.

³⁸See e.g., In re Pukalani STP Co., Ltd., Docket No. 05-0025, Proposed Decision and Order No. 22015, filed on September 7, 2005; and Decision and Order No. 22052, filed on September 28, 2005. See also In re Puhi Sewer & Water Co., Inc., Docket No. 2006-0423, Proposed Decision and Order No. 23376, filed on April 20, 2007; and Decision and Order No. 23412, filed on May 3, 2007.

F.

Rules and Regulations

In their Stipulation, the Parties agreed to various revisions to LWC's initially filed Rules and Regulations. The Parties incorporated their stipulated changes and attached a copy of LWC's revised Rules and Regulations as Exhibit C to their Stipulation. Upon review, the commission finds LWC's proposed Rules and Regulations, attached as Exhibit C to the Parties' Stipulation, to be reasonable and appropriate.

With regards to LWC's APCAC, upon agreeing on establishing an APCAC and the methodology to establish such a charge, the Parties, during settlement discussions agreed to include the following language in LWC's Tariff, which is set forth verbatim, below:

1. The Company's monthly water consumption rates are based on an electricity cost of \$1.0296/1000 gallons. When the electricity cost per 1000 gallons is more or less than \$1.0296, there shall be a corresponding increase or decrease in the above rates.
2. Prior to the 20th day of January, May, and September, respectively, the Company shall make the following computation as of the last day of December, April, and August, respectively: Divide: (a) the sum of the repriced cost of electricity for the twelve-month period ending on the computation date, priced at the level charged the Company as of the computation date, by (b) the total amount of gallons sold by the Company, expressed in 1000 gallons increments for the same period.
3. The difference between the amount computed in accordance with paragraph 2 above and \$1.0296/1000 gallons shall become effective on the next billings rendered by the Company following the change in energy cost.

4. The power cost adjustment ("PCA") charge to be billed to the customer will equal the "difference computed" in paragraph 3 above multiplied by the customer's per 1,000 gallons of water use for the next billing period referenced above.

The commission finds the Parties' stipulations regarding LWC's APCAC, set forth in the Stipulation and Rule XXVI of LWC's Tariff (i.e., Exhibit C of the Stipulation), including the language set forth above, to be reasonable.

Additionally, the Parties agreed to reflect the proposed monthly fire protection service charges in LWC's Tariff. Moreover, the Consumer Advocate noted certain other proposed changes to LWC's Tariff, which include specific revisions to Rules VII, IX, XI, XVIII, and XIX as set forth on pages 24 through 26 of the Consumer Advocate's Direct Testimony. LWC, in its Rebuttal Testimony, indicated that it does not have any problems with any of the changes recommended by the Consumer Advocate to its existing Rules and Regulations. Upon review, the commission finds the Tariff revisions described above to be reasonable.

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, under the circumstances of this particular proceeding, to be reasonable. In particular, the commission finds and concludes as follows:

1. The tariffs, rates, and charges 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. As stipulated to by the Parties, LWC is entitled to an increase in revenues of \$42,248, or approximately 35.15%, over revenues at present rates, and total operating revenues of \$162,424 for the Test Year.

4. The Parties' stipulated rate design is reasonable.

5. LWC's proposal to establish and implement an APCAC, which the Consumer Advocate agreed to, is just and reasonable.

6. The proposed changes to LWC's Tariff, as set forth in Exhibit C of the Stipulation, are reasonable.

7. LWC shall promptly file its revised tariff sheets and rate schedules for the commission's review and approval, which implement the tariff changes and increases in rates and charges authorized by this Proposed Decision and Order, with copies served on the Consumer Advocate.

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:³⁹

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."⁴⁰

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.⁴¹ 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 contested case hearing."⁴² The commission shall make every effort

³⁹This deadline date is consistent with the deadline to move for reconsideration of a commission decision or order. See HAR § 6-61-137.

⁴⁰See HRS § 269-16(f)(3).

⁴¹Id.

⁴²Id.

to complete its deliberations and issue its Decision and Order by September 29, 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 Parties' Stipulation, filed on May 25, 2007, is approved, consistent with the terms of this Proposed Decision and Order.

2. LWC may increase its rates to produce additional revenues of \$42,248, or approximately 35.15%, over revenues at present rates, as shown on Exhibit A, attached, which represents an increase in LWC's revenue requirement to \$162,424 for the Test Year.

3. LWC shall promptly file its revised tariff sheets and rate schedules for the commission's review and approval, which implement the tariff changes and increases in rates and charges authorized by this Proposed Decision and Order, with

copies served upon the Consumer Advocate. LWC's revised tariff sheets and rate schedules, shall take effect upon the commission's approval of said filings.

4. 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.

5. LWC's Motion to Withdraw, filed on May 22, 2007, is denied.

6. 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 law.

DONE at Honolulu, Hawaii

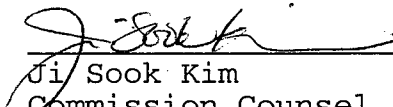
JUN 29 2007

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

2006-0505.

Launiupoko Water Company, LLC
Results of Operations
Test Year Ending December 31, 2007

	Present Rates	Additional Amount	Approved Rates
Operating Revenues			
Potable	\$51,840	\$17,104	\$68,944
Meters	68,336	21,760	90,096
Hydrants	0	3,384	3,384
Total Operating Revenues	<u>\$120,176</u>	<u>\$42,248</u>	<u>\$162,424</u>
Operating and Maintenance Expenses			
Electricity	\$42,687		\$42,687
Well Maint - Well #2	5,396		5,396
Daily Testing	15,085		15,085
Supplies & Materials	3,913		3,913
Meter Repair	102		102
System Maintenance - Pural	867		867
Labor	11,596		11,596
Baseyard Use Fee	5,580		5,580
Equip Rental	928		928
Installation supplies	4,489		4,489
Installation Labor	1,488		1,488
Auto Expense	4,948		4,948
Consulting	4,533		4,533
Monthly Reading	944		944
Education/License	6,430		6,430
Accounting	6,142		6,142
Bank Svc Charges	59		59
Data Entry/Billing	7,558		7,558
Dues	171		171
Insurance	2,838		2,838
Legal Fees	0		0
Office Equip Rental	2,180		2,180
Office Rent	6,228		6,228
Postage & Delivery	348		348
Telephone	509		509
Consultants - Rate Case	17,034		17,034
Total O & M Expenses	<u>\$152,053</u>	<u>\$0</u>	<u>\$152,053</u>
Taxes Other Than Income Tax	7,673	2,698	10,371
Total Operating Expenses Including Taxes etc.	<u>\$159,726</u>	<u>\$2,698</u>	<u>\$162,424</u>
Net Operating Income (Loss)	<u>(\$39,550)</u>	<u>\$39,550</u>	<u>\$0</u>

Launiupoko Water Company, LLC
Taxes Other Than Income Taxes
Test Year Ending December 31, 2007

<u>Revenue Taxes</u>	<u>Revenues at Present Rates</u>	<u>Revenues at Proposed Rates</u>	<u>Tax Rates</u>	<u>Taxes at Present Rates</u>	<u>Taxes at Proposed Rates</u>
Public Company Service Tax	\$120,176	\$162,424	5.885%	\$7,072	\$9,559
Public Utility Fee	120,176	162,424	0.500%	601	812
Total Revenue Taxes				<u>\$7,673</u>	<u>\$10,371</u>
<u>Other Taxes</u>					
Payroll Tax				0	0
Total Other Taxes				<u>0</u>	<u>0</u>
Total Taxes Other Than Income Taxes				<u><u>\$7,673</u></u>	<u><u>\$10,371</u></u>

CERTIFICATE OF SERVICE

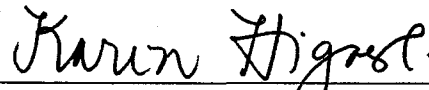
I hereby certify that I have this date served a copy of the foregoing Proposed Decision and Order No. 23523 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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

DATED: JUN 29 2007