

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

KUKIO UTILITY COMPANY, LLC)

DOCKET NO. 2007-0198

For Approval of a Rate Increase)
Pursuant to Hawaii Revised)
Statutes § 269-16; and Revised)
Rate Schedules.)
_____)

ORDER NO. 23716

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

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Filed Oct. 12, 2007

At 1 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

Karen Higashi

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ORDER

By this Order, the commission approves KUKIO UTILITY COMPANY, LLC.'s ("Kukio") request to submit its unaudited financial statements in lieu of an audited balance sheet, required under Hawaii Administrative Rules ("HAR") § 6-61-75(b)(1), provided that Kukio make available for review all documentation supporting its financial statements.¹ The commission also finds that Kukio's application is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88.² Thus, the filing date of Kukio's completed Application is July 20, 2007. Finally, the commission instructs the Parties to file a stipulated procedural schedule for the commission's review and approval, within thirty days from the date of this Order. If the

¹The DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62. Kukio and the Consumer Advocate are hereafter jointly referred to as the "Parties."

²Kukio's Application, Exhibits KUC 1 & 2, KW 3 through 10, KS 3 through 10, KUC T-100 through 200, Verification, and Certificate of Service, filed on July 20, 2007 ("Application"). Copies of the Application were served on the Consumer Advocate.

Parties are unable to stipulate to a procedural schedule, the commission will issue its own procedural order that complies with the time requirements of HRS § 269-16(f)(3).

I.

Background

Kukio is a public utility that provides water and wastewater utility services, including the gathering, storage, transmission, distribution, processing, and other provision and elimination of water, within its authorized service area on the island of Hawaii.³

On July 20, 2007, Kukio filed its Application, requesting approval of a rate increase and revised rate schedules and rules. Specifically, for its water operations, Kukio requests commission approval of a general rate increase of approximately \$238,603, or an approximate 11.0% increase from the pro forma revenue amount of \$2,170,266 at present rates for the 2008 calendar test year. Regarding its wastewater operations, Kukio requests commission approval of a general rate increase of approximately \$65,888, or an approximate 7.6% increase, from the pro forma revenue amount of \$863,122 at present rates for the 2008 calendar test year. In addition, Kukio seeks approval to establish a Power Cost Adjustment Factor ("PCAF") for its water service to allow it to increase or decrease its rates based on

³Kukio was granted a certificate of public convenience and necessity in Decision and Order No. 20103, filed on March 23, 2003, as amended by Order No. 20688, filed on November 26, 2003, in Docket No. 01-0433.

any corresponding increase or decrease in its cost for electricity, and to revise the existing PCAF formula pertaining to its sewer service.

Furthermore, Kukio requests, 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 under HAR § 6-61-75(b)(1) ("Waiver Request").

On August 9, 2007, the Consumer Advocate filed its Statement of Position Regarding Completeness of Application ("Statement Regarding Completeness"), stating that it does not object to the completeness of Kukio's Application.

II.

Discussion

Kukio is a public utility with annual gross operating revenues of less than \$2 million. As such, Kukio filed its Application under HAR § 6-61-88 (Requirements for General Rate Increase Applications by a Public Utility with Annual Gross Operating Revenues of Less than \$2,000,000) and HRS § 269-16(f). Under HRS § 269-16(f), the commission must make every effort to issue its proposed decision and order within six months from the filing date of Kukio's completed 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).

A.

Waiver Request

HAR Chapter 6-61, Subchapter 8, governs rate increase applications and tariff changes. In relevant part, HAR § 6-61-86 requires a public utility requesting authority to change its rate, schedule, or charge to file an application, and a financial statement under HAR § 6-61-75. HAR § 6-61-75(b)(1) requires that financial statements be accompanied by "[a]n audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year[.]" HAR § 6-61-75(b)(1).

Under HAR § 6-61-92, the commission may modify the requirements of Subchapter 8, HAR Chapter 6-61, in its discretion, if the requirements of the subchapter would impose a financial hardship on the applicant or be unjust or unreasonable. Further, under HRS § 269-16(f), the commission is authorized to 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." HRS § 269-16(f).

Kukio requests, pursuant to HAR § 6-61-92, that its unaudited financial statements (submitted with its Application as Exhibit KUC 2), be accepted in lieu of audited financial statements as required by HAR § 6-61-75(b)(1). It contends that as a small utility with annual revenues "substantially" less than \$2 million, Kukio does not have audited financial reports and that compliance with the requirement would: (1) delay the filing

of the Application; and (2) unjustly impose on Kukio additional financial burdens.⁴

The Consumer Advocate does not object to approval of Kukio's Waiver Request, provided that Kukio makes available for review all documentation supporting its test year projections.⁵

The commission finds that the requirement for Kukio to submit an audited balance sheet pursuant to HAR § 6-61-75(b)(1) appears unduly burdensome, and thus, is unjust and unreasonable in this instance. Accordingly, the commission finds good cause to approve Kukio's Waiver Request, subject to the Consumer Advocate's proposed condition.

B.

Completed Application

Upon review, the commission finds that Kukio's Application is complete and properly filed under HRS § 269-16(f) and HAR § 6-61-88, and therefore, concurs with the Consumer Advocate's assessment regarding the completeness of the Application. Accordingly, the filing date of Kukio's completed Application is July 20, 2007.

C.

Stipulated Procedural Order

The commission interprets HRS § 269-16(f)(3) to require the commission to issue a procedural order that allows the

⁴Application, at 11.

⁵Consumer Advocate's Statement of Position Regarding Completeness of Application, at 2.

commission to complete its review within the six-month period prescribed in HRS § 269-16(f)(3). Given the six-month deadline governing the commission's issuance of its Proposed Decision and Order, the Parties shall: (1) initiate the discovery process forthwith; and (2) submit a stipulated procedural schedule setting forth the issues, procedural schedule, and procedures to govern Kukio's Application, within thirty (30) days from the date of this Order.⁶ The stipulated procedural schedule to be submitted by the Parties shall, at a minimum, provide that: (1) Kukio's rebuttal testimony (or rebuttal statement of position), if any, be filed by December 28, 2007; and (2) the Parties' joint settlement agreement, if any, be filed by January 4, 2008, in order for the commission to reasonably meet the six-month deadline of January 18, 2008. If the Parties are unable to agree on a procedural schedule, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

III.

Orders

THE COMMISSION ORDERS:

1. Kukio's request to submit its unaudited financial statements in lieu of an audited balance sheet, required under HAR § 6-61-75(b)(1), is approved; provided that Kukio make available for review all documentation supporting its financial

⁶If intervenor or participant status is later granted to any interested person, the commission, in its discretion, may amend any stipulated procedural schedule approved by the commission, if necessary.

statements, including all accounting books and records, to the commission and the Consumer Advocate.

2. The filing date of Kukio's completed Application is July 20, 2007.

3. The Parties shall: (a) initiate the discovery process without delay; and (b) within thirty days from the date of this Order, submit to the commission a stipulated procedural schedule, incorporating their agreed upon schedule with respect to this proceeding. The deadlines in the stipulated procedural schedule must be based upon the commission completing its deliberations in this case by January 18, 2008. To this end, the deadline for Kukio's rebuttal testimony or its rebuttal statement of position, if any, must be no later than December 28, 2007; and the deadline for the Parties to submit a joint settlement agreement, if any, must be no later than January 4, 2008.

4. If the Parties are unable to stipulate to such a schedule, the commission will issue its own procedural order that complies with the time requirements of HRS § 269-16(f)(3).

DONE at Honolulu, Hawaii OCT 12 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Jodi K. Yi
Jodi K. Yi
Commission Counsel

2007-0198.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23716 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: OCT 12 2007