

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

WAIKOLOA SANITARY SEWER)
COMPANY, INC., dba)
WEST HAWAII SEWER COMPANY)

DOCKET NO. 05-0329

For Expedited Review and Approval)
to Increase Rates.)

INTERIM DECISION AND ORDER NO. 23940

Filed December 28, 2007

At 12 o'clock P .M.

Stan Al D
for Chief Clerk of the Commission

ATTEST: A True Copy

KAREN HIGASHI

Chief Clerk, Public Utilities
Commission, State of Hawaii.

Eleanor R. Hinssen

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

INTERIM DECISION AND ORDER

By this Interim Decision and Order, the commission approves, on an interim basis, an increase in revenues of \$276,926, or an approximate 42 percent increase in revenues over present rates, for WAIKOLOA SANITARY SEWER COMPANY, INC., dba WEST HAWAII SEWER COMPANY ("WHSC"), based on the 2006 calendar test year ("Test Year").¹ In so doing, the commission authorizes an increase in WHSC's monthly standby charge to \$36.77 per equivalent residential unit ("per unit").

In addition, the commission instructs the Parties to submit a stipulated prehearing order for the commission's review and consideration that identifies the remaining issues in dispute

¹The Parties are WHSC and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules § 6-61-62(a).

and remaining procedures, including any contested case hearing,² by January 25, 2008.

I.

Background

A.

WHSC

WHSC is a public utility that owns, administers, and operates a wastewater collection and treatment system that services the residential, multi-family, commercial, and public authority customers in the greater Waikoloa Village area on the island of Hawaii. WHSC's annual gross revenues are less than two million dollars.

B.

Proposed Decision and Order No. 23688

By Proposed Decision and Order No. 23688, filed on October 1, 2007, the commission proposed a general rate increase of \$277,439, or 42 percent over revenues at present rates, for WHSC, based on a total revenue requirement of \$937,052 for the Test Year.³ In so doing, the commission proposed an increase in WHSC's monthly standby charge to \$36.73 per unit.

²HRS § 269-16(f) allows the Parties to waive the contested case hearing.

³Proposed Decision and Order No. 23688, filed on October 1, 2007. The procedural background for this proceeding is set forth in Section II of Proposed Decision and Order No. 23688.

With respect to the acceptance or non-acceptance of Proposed Decision and Order No. 23688, the commission instructed the Parties as follows:

XIV.

Acceptance or Non-Acceptance

Consistent with HRS § 269-16(f)(3), by October 15, 2007, each of the Parties shall notify the commission as to whether it:

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."

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. 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."

In the event that one (1) or both of the Parties do not accept, in whole or in part, the Proposed Decision and Order, the commission advises that it may review de novo the entire docket and all issues therein, including the Parties' areas of agreement.

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XV.

Orders

THE COMMISSION ORDERS:

.....

3. By October 15, 2007, 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 XIV, above. A Party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record.

Proposed Decision and Order No. 23688, at 50-51 (footnotes, text, and citations therein omitted).

On October 15, 2007, WHSC filed its Notice of Acceptance and Notice of Partial Non-Acceptance of Proposed Decision and Order No. 23688.⁴ In addition, by letter dated October 15, 2007, the Consumer Advocate notified the commission that it "accepts in toto, the merits of the discussion contained in said proposed Decision and Order and the Commission's findings with regard to the differences between the parties."⁵

C.

WHSC's Position

By its Notice, WHSC objects to and does not accept:

- (1) the commission's "upward adjustment" of \$546,968 to WHSC's CIAC balance, increasing WHSC's CIAC balance to \$2,209,707; and
- (2) the commission's failure to properly calculate the accumulated amortization of CIAC, even if some upward adjustment

⁴Notice of Partial Acceptance and Notice of Partial Non-Acceptance of Proposed Decision and Order No. 23688; and Certificate of Service, filed on October 15, 2007 (collectively, "Notice").

⁵Consumer Advocate's letter, dated October 15, 2007, with attachments (Exhibits A and B), at 1.

of CIAC was appropriate. WHSC accepts, with reservations, the remainder of Proposed Decision and Order No. 23688. In addition, WHSC requests a contested case hearing on the rulings it contests, in accordance with HRS § 269-16(f).

With respect to the proposed monthly standby charge of \$36.73 per unit, WHSC asserts:

1. The commission never granted WHSC an interim rate increase, despite the statutory mandate of HRS § 269-16(d). Proposed D&O No. 23688 constitutes the "increase in rates, fares and charges . . . to which the commission, based on the evidentiary record before it, believes the utility is probably entitled."

2. As required by [Ordering Paragraph No. 2 of] Proposed Decision and Order No. 23688, on October 15, 2007, WHSC will be filing revised tariff sheets and rates, which implement the increases in rates and charges authorized by Proposed Decision and Order No. 23688, i.e., the monthly standby charge of \$36.73 per unit. WHSC requests that the commission promptly review and approve this filing.

The effect of WHSC's non-acceptance of certain of the commission's rulings in Proposed Decision and Order No. 23688 is that, for the commission's final decision and order in this proceeding, WHSC seeks a monthly standby charge that is in excess of the \$36.73 per unit proposed by the commission.

D.

Consumer Advocate's Position

While the Consumer Advocate, by its letter dated October 15, 2007, accepts in toto the merits of the commission's discussion contained in Proposed Decision and Order No. 23688, the Consumer Advocate notes that certain adjustments should be made to WHSC's total revenue requirement that ultimately results in an adjusted monthly standby charge of \$36.77 per unit, \$.04 more per unit.⁶

E.

Docket No. 00-0440

In In re Waikoloa Sanitary Sewer Co., Inc., dba West Hawaii Sewer Co., Docket No. 00-0440, the commission recently issued its Order that: (1) grants in part and denies in part WHSC's motion for reconsideration, filed on September 19, 2007, of Order No. 23635, filed on September 7, 2007; and (2) establishes a monthly standby charge of \$20.01 per unit for WHSC.

II.

Discussion

HRS § 269-16 states in relevant part:

(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in

⁶See Consumer Advocate's letter, dated October 15, 2007, at 1-2; and Exhibits A and B attached thereto.

carrying out this mandate, the commission shall require all parties to a proceeding to comply strictly with procedural time schedules that it establishes. If a decision is rendered after the nine-month period, the commission shall report in writing the reasons therefor to the legislature within thirty days after rendering the decision.

Notwithstanding subsection (c), if the commission has not issued its final decision on a public utility's rate application within the nine-month period stated in this section, the commission, within one month after the expiration of the nine-month period, shall render an interim decision allowing the increase in rates, fares and charges, if any, to which the commission, based on the evidentiary record before it, believes the public utility is probably entitled. The commission may postpone its interim rate decision for thirty days if the commission considers the evidentiary hearings incomplete. In the event interim rates are made effective, the commission shall require by order the public utility to return, in the form of an adjustment to rates, fares, or charges to be billed in the future, any amounts with interest, at a rate equal to the rate of return on the public utility's rate base found to be reasonable by the commission, received under the interim rates that are in excess of the rates, fares, or charges finally determined to be just and reasonable by the commission. Interest on any excess shall commence as of the date that any rate, fare, or charge goes into effect that results in the excess and shall continue to accrue on the balance of the excess until returned.

.....

(f) 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:

.....

(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 [HRS] 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; provide that the parties to the

proceeding may waive the contested case hearing.

HRS § 269-16(d) and (f) (emphasis added).⁷

A.

Results of Operation

Based on the commission's review of the docket record, including the Parties' October 15, 2007 filings, the commission finds that WHSC is probably entitled to increase its monthly standby charge to \$36.77 per unit, as adjusted by the Consumer Advocate. These adjustments reflect: (1) the changes to WHSC's Test Year revenues at present rates, based on WHSC's monthly standby charge of \$20.01 per unit, as established by the commission in its recent Order issued in Docket No. 00-0440; and (2) the increase in WHSC's Test Year working cash by approximately \$3,885, resulting in a revised Test Year revenue requirement of approximately \$937,697.⁸

For interim rate relief purposes, the commission will apply the average test year methodology. Attached to this Interim Decision and Order is Exhibit A, which provides the estimates of WHSC's operating revenues and expenses and the average depreciated rate base for the Test Year.

⁷The commission's reasons for declining to issue an interim rate decision within eleven months following the filing of WHSC's completed application are set forth in footnote 8 of Proposed Decision and Order No. 23688. Proposed Decision and Order No. 23688, at 6 n.8; see also id., n.7.

⁸See Consumer Advocate's letter, dated October 15, 2007, at 1-2, and Exhibit B, at 2.

For purposes of this Interim Decision and Order, the commission utilizes the 8.85 percent rate of return on the average depreciated rate base of \$921,295, and finds that interim rate relief in the amount of \$276,926 in additional revenues, or an approximate 42 percent increase in revenues over present rates, is appropriate. Based on the record, it appears that WHSC will be probably entitled to the level of relief that the commission grants in this Interim Decision and Order. The interim rate relief granted meets WHSC's need for immediate rate relief and protects the interests of the ratepayers.

The commission emphasizes that the findings and adoption here of the various amounts reflected in Exhibit A are for the purposes of this Interim Decision and Order only. The commission's final decision will reflect a detailed review and analysis of all work papers, schedules, and other materials produced by the Parties.

B.

Interim Rate Design

For interim purposes, the commission authorizes an increase in WHSC's monthly standby charge to \$36.77 per unit, with no interim increase in WHSC's sewer quantity charge of \$1.33 per thousand gallons of metered water.⁹ Moreover, in order to avoid rate fluctuation, the commission determines that the monthly standby charge of \$36.77 per unit established by this

⁹See generally Proposed Decision and Order No. 23688, Section XI, Rate Design, at 44-47.

Interim Decision and Order will be effective on the same day that the monthly standby charge for WHSC is established in the recent Order issued by the commission in Docket No. 00-0440.

C.

Refund

WHSC will be required to refund to its customers any excess collected under this Interim Decision and Order, together with such interest as provided for by HRS § 269-16(d), if the final increase approved by the commission is less than the total interim increase granted by this Interim Decision and Order.

D.

Procedural Order

HRS § 269-16(f)(3) provides in respective part that any party that does not accept a proposed decision and order issued in accordance with HRS § 269-16(f) "shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing."

Here, WHSC requests a contested case hearing on the rulings it contests, in accordance with HRS § 269-16(f). Accordingly, the commission instructs the Parties to submit a stipulated prehearing order for the commission's review and consideration that identifies the remaining issues in dispute and remaining procedures, including a contested case hearing;

provided that the Parties may waive the contested case hearing.¹⁰ If the Parties are unable to agree on a stipulated prehearing order, each Party shall submit its proposed prehearing order by the same date.

III.

Ultimate Findings of Fact and Conclusions of Law

The commission makes the following findings of fact and conclusions of law:

1. Pursuant to HRS § 269-16(d), the commission may grant an interim increase, subject to refund and interest, pending a final decision, if the commission believes that the public utility is probably entitled to an increase in its rates.

2. Based on the docket record before the commission, including the Parties' October 15, 2007 filings, WHSC is probably entitled to an increase in its rates.

3. Without interim relief, WHSC may be denied an opportunity to earn a fair return on its rate base.

4. For interim purposes, pending a final decision in this docket, it is appropriate and reasonable to adopt an average depreciated rate base of \$921,295, a rate of return on the rate base of 8.85 percent, and Test Year results of operations, as set

¹⁰See Stipulated Procedural Order No. 22370, at 4-5 (if there are substantial disagreements following the filing of the Parties' position statements, and the Parties are unable to resolve their differences and they do not waive the right to a hearing, the Parties shall propose a hearing schedule, including the filing of simultaneous post-hearing briefs, for the commission's approval).

forth in Exhibit A, which is attached to this Interim Decision and Order.

5. WHSC is probably entitled to an interim increase in revenues of \$276,926, or an increase of approximately 42 percent over revenues at present rates.

IV.

Orders

THE COMMISSION ORDERS:

1. WHSC may increase its rates, on an interim basis, to such levels as will produce, \$276,926 in additional revenues for the Test Year (approximately 42 percent over revenues at present rates).

2. The interim increase in rates shall take effect from January 9, 2008, provided that WHSC shall file its revised tariff rates with the commission by January 8, 2008, with the applicable issued and effective dates, and serve copies on the Consumer Advocate.

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

4. The Parties shall submit a stipulated prehearing order for the commission's review and consideration that identifies the remaining issues in dispute and remaining

procedures, including any contested case hearing, by January 25, 2008. If the Parties are unable to agree on a stipulated prehearing order, each Party shall submit its proposed prehearing order by the same date.

DONE at Honolulu, Hawaii DEC 28 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By (EXCUSED)
John E. Cole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

05-0329.sl

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
REVENUE REQUIREMENTS
TEST YEAR ENDED DECEMBER 31, 2006

	Present Rates	Additional Amount	Interim Rates
REVENUES			
Residential	\$ 82,770	38,209	\$ 120,979
Multi Family	513,019	225,848	738,867
Commercial	28,740	8,647	37,387
Other (including hotels)	36,242	4,222	40,464
Total Operating Revenues	<u>\$ 660,771</u>	<u>\$ 276,926</u>	<u>\$ 937,697</u>
OPERATING & MAINT. EXPENSES			
Salaries and Wages - Employees	\$ 304,306	\$ 304,306	
Purchased Power	25,020	25,020	
Fuel for Power Production	22,572	22,572	
Chemicals	14,592	14,592	
Material & Supplies	59,544	59,544	
Contractual Services - Other	18,496	18,496	
Rental of Equipment	29,136	29,136	
Administrative & General Allocation	<u>207,255</u>	<u>-</u>	<u>207,255</u>
Total O & M Expenses	<u>\$ 680,921</u>	<u>-</u>	<u>\$ 680,921</u>
Depreciation	\$ 64,867	\$ 64,867	
TOTIT	42,190	17,682	59,872
Income Taxes	<u>(48,653)</u>	<u>99,153</u>	<u>50,500</u>
Net Operating Expense	<u>\$ 58,404</u>	<u>\$ 116,835</u>	<u>\$ 175,239</u>
Net Operating Income (Loss)	<u><u>\$ (78,554)</u></u>	<u><u>\$ 160,091</u></u>	<u><u>\$ 81,537</u></u>
Average Rate Base	<u><u>\$ 921,295</u></u>		<u><u>\$ 921,295</u></u>
Return on Rate Base	<u><u>-8.53%</u></u>		<u><u>8.85%</u></u>

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
REVENUE TAXES
TEST YEAR ENDED DECEMBER 31, 2006

	Tax Rates	Present Rates	Adjustments	Interim Rates
Total Operating Revenues		<u>\$ 660,771</u>	<u>\$ 276,926</u>	<u>\$ 937,697</u>
Public Company Service Tax	5.885%	38,886	16,297	55,183
Public Utility Fee	0.500%	<u>3,304</u>	<u>1,385</u>	<u>4,688</u>
Total Revenue Taxes	6.385%	<u>\$ 42,190</u>	<u>\$ 17,682</u>	<u>\$ 59,872</u>

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
INCOME TAX EXPENSE
TEST YEAR ENDED DECEMBER 31, 2006

	Present Rates	Interim Rates
REVENUES		
Residential	\$ 82,770	\$ 120,979
Multi Family	513,019	738,867
Commercial	28,740	37,387
Other (including hotels)	36,242	40,464
Total Operating Revenues	<u>660,771</u>	<u>937,697</u>
OPERATING & MAINT. EXPENSES		
Salaries and Wages - Employees	304,306	304,306
Purchased Power	25,020	25,020
Fuel for Power Production	22,572	22,572
Chemicals	14,592	14,592
Material & Supplies	59,544	59,544
Contractual Services - Other	18,496	18,496
Rental of Equipment	29,136	29,136
Administrative & General Allocation	<u>207,255</u>	<u>207,255</u>
Total O & M Expenses	<u>680,921</u>	<u>680,921</u>
Depreciation	64,867	64,867
TOTIT	<u>42,190</u>	<u>59,872</u>
Net Operating Expense	<u>107,057</u>	<u>124,739</u>
 Taxable Income	 (127,207)	 132,037
 Income Tax Provision		
Effective tax rate of	38.2471%	(48,653)
 Income Tax Expense	 <u>\$ (48,653)</u>	 <u>\$ 50,500</u>

DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
AVERAGE RATE BASE
TEST YEAR ENDED DECEMBER 31, 2006

Description	At 12/31/2005	At 12/31/2006	Average
Plant in Service	\$ 3,860,570	\$ 3,915,570	
Accum. Depreciation	1,480,044	1,589,226	
Net-Plant-in-Service	<u>2,380,526</u>	<u>2,326,344</u>	\$ 2,353,435
Deduct:			
CIAC	2,209,704	2,209,707	
Accum. Amortization of CIAC	(843,703)	(888,018)	
Deferred Income Tax	62,111	85,423	
Deferred Hawaii Capital Goods Credit	72,945	69,598	
Subtotal	<u>1,501,057</u>	<u>1,476,710</u>	1,488,884
Average			864,552
Working Cash at Present Rates			<u>56,743</u>
Rate Base at Present and Interim Rates			<u>\$ 921,295</u>

**DOCKET NO. 05-0329
WEST HAWAII SEWER COMPANY
WORKING CASH
TEST YEAR ENDED DECEMBER 31, 2006**

Operating Expenses

Salaries and Wages - Employees	\$ 304,306
Purchased Power	25,020
Fuel for Power Production	22,572
Chemicals	14,592
Material & Supplies	59,544
Contractual Services - Other	18,496
Rental of Equipment	29,136
Administrative & General Allocation	<u>207,255</u>
	680,921

Number of months in a year 12

Working Cash \$ 56,743

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Interim Decision and Order No. 23940 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
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Attorneys for WAIKOLOA SANITARY SEWER COMPANY, INC., dba
WEST HAWAII SEWER COMPANY

[Signature]
for *[Signature]* Karen Higashi

DATED: DEC 28 2007