

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

COUNTY OF MAUI,)

Complainant,)

vs.)

WAI`OLA O MOLOKA`I, INC., MOLOKAI)
PUBLIC UTILITIES, INC., AND)
MOSCO, INC.,)

Respondents.)

Docket No. 2008-0116

ORDER DENYING RESPONDENTS' MOTION FOR AN EXTENSION OF
TIME AND DIRECTING PARTIES TO FILE STIPULATED PROCEDURAL SCHEDULE

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STATE OF HAWAII

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 PUBLIC UTILITIES, INC., AND)
 MOSCO, INC.,)
)
 Respondents.)
 _____)

ORDER DENYING RESPONDENTS' MOTION FOR AN EXTENSION OF
TIME AND DIRECTING PARTIES TO FILE STIPULATED PROCEDURAL SCHEDULE

By this Order, the commission denies Respondents WAI`OLA O MOLOKA`I, INC., MOLOKAI PUBLIC UTILITIES, INC., and MOSCO, INC.'s (collectively, "Respondents" or "Molokai Utilities") request for an extension of time to file an answer to the formal complaint filed by Complainant COUNTY OF MAUI ("Complainant" or "County").¹ In addition, the commission directs the Parties to file a stipulated procedural schedule for the commission's review and approval, within thirty (30) days from the date of this Order. Alternatively, in the absence of a formal procedural schedule, each party shall submit

¹See County's Formal Complaint, filed on June 16, 2008 ("Formal Complaint"). The County served its Formal Complaint on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to any proceeding before the commission. See Hawaii Revised Statutes ("HRS") § 269-51; Hawaii Administrative Rules ("HAR") § 6-61-62. The County, the Molokai Utilities, and the Consumer Advocate are collectively referred to herein as the "Parties."

a proposed procedural schedule for the commission's consideration by the same date.

I.

Formal Complaint

On June 16, 2008, Complainant filed its Formal Complaint with the commission against Respondents, alleging:

On or about May 30, 2008, the Molokai Utilities purported to provide "notice" that, unless some public or private entity assumed their operations, the Molokai Utilities would cease operations, resulting in loss of water and sewer services to some 1,200 residents, businesses, and other customers, including the County of Maui. Should the Molokai Utilities make good on this threat, its customers (including the County) will suffer immediate and irreparable harm. Indeed, as the Molokai Utilities are the only providers of drinking water and wastewater services for the western portion of the Island of Molokai, cessation of these services would cause an unprecedented public health catastrophe as well as irreparable harm to the Molokai economy.

The County is not only concerned for the health and well-being of its citizens, but also is directly affected. The Molokai Utilities are the sole source of water supplying fire hydrants along Kaluakoi Road, through Maunaloa town, and in the Kualapuu area. If water for these hydrants should be cut off, the County's ability to fight fires in these areas will be severely compromised.

In addition, the County is a customer of the Molokai Utilities. For example, the County's Department of Parks and Recreation relies on the Molokai Utilities for water for its Papohaku Beach Park and for its Kualapuu Park.²

²Formal Complaint at 1-2.

Complainant further alleges that a cessation of service by Respondents would violate HRS § 269-19, and the terms and conditions of each of Respondents' Certificates of Public Convenience and Necessity. Complainant requests several forms of relief from the commission.

II.

Respondents' August 6, 2008 Letter

By Order filed on July 16, 2008, the commission directed Respondents to file an answer to the Formal Complaint within twenty days after service of the Order, *i.e.*, by August 7, 2008.

On August 6, 2008, Respondents filed a letter with the commission, representing that they "simply do not have the staff, expertise or the financial resources to respond to the County's complaint at this time."³ Respondents stated that if the commission nevertheless requires Respondents to file a response to the Formal Complaint, then Respondents request an extension of time to do so until ten days following the issuance of the commission's rate increase decision in Docket No. 2008-0115. Alternatively, if the commission decides not to grant an extension of time, Respondents provided a "general response" to the County's Formal Complaint in their August 6, 2008 letter.

³Letter dated August 5, 2008, and filed on August 6, 2008, from the Molokai Utilities to the commission, at 1.

The commission will treat Respondents' request in their August 6, 2008 letter for an extension of time to file an answer to the Formal Complaint, as a motion for an extension of time notwithstanding the requirements the commission's Order filed on July 16, 2008 ("Motion") under HAR §§ 6-61-23 and 6-61-41. HAR § 6-61-23(a)(1) allows the commission to enlarge a period by which a required act must be completed upon a showing of good cause provided that a written request is made before the expiration of the period originally prescribed.

Upon review of the representations in Respondents' letter, the commission does not find good cause to either excuse Respondents from filing an answer to the Formal Complaint, or to grant Respondents an extension of time to file an answer. The Formal Complaint, which is only three pages long, would not require extensive time or resources to answer. Indeed, Respondents provided a "general response" to the Formal Complaint in their August 6, 2008 letter. The commission will consider this response to be Respondents' answer to the Formal Complaint, and will deny Respondents' Motion for an extension of time to file any further answer.

III.

Stipulated Procedural Schedule

The commission directs the Parties to file a stipulated procedural schedule for the commission's review and approval, within thirty (30) days from the date of this Order.

Alternatively, in the absence of a formal procedural schedule, each party shall submit a proposed procedural schedule for the commission's consideration by the same date.

IV.

Orders

THE COMMISSION ORDERS:

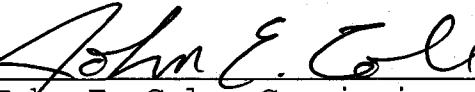
1. Respondents' Motion for an extension of time to file any further answer to the Formal Complaint, is denied.


2. The Parties shall file a stipulated procedural schedule for the commission's review and approval, within thirty (30) days from the date of this Order. Alternatively, in the absence of a formal procedural schedule, each party shall submit a proposed procedural schedule for the commission's consideration by the same date.

DONE at Honolulu, Hawaii SEP 18 2008.

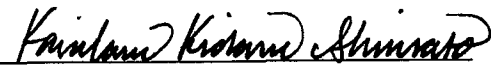
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

2008-0116.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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