

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
WAIKOLOA RESORT UTILITIES, INC.,)
dba WEST HAWAII UTILITY COMPANY)
For Approval to Increase Rates.)

DOCKET NO. 2006-0409

DECISION AND ORDER NO. 24085

Filed March 10, 2008
At 11:30 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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KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii

Karen Higashi.

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DECISION AND ORDER

By this Decision and Order, the commission approves an increase of \$1,146,512, or approximately 27 percent over revenues at present rates for WAIKOLOA RESORT UTILITIES, INC., dba WEST HAWAII UTILITY COMPANY ("WHUC"), based on a total revenue requirement of \$5,314,163 for the 2007 calendar test year ("Test Year") (consolidated operations basis), and a rate of return of 8.94 percent. Specifically, the commission approves: (1) an across-the-board increase in WHUC's water rates of 16.5 percent; and (2) an across-the-board increase in WHUC's sewer rates of approximately 42 percent, under the first phase of a proposed two-step phase-in; followed by an additional increase in WHUC's sewer rates, ranging from approximately 27 percent to 30 percent, no earlier than six months from the date of this Decision and Order. The commission also approves a decrease in WHUC's non-potable irrigation service charge of 13.3 percent.

In so doing, the commission approves in part, and denies in part, the Stipulation in Lieu of Hearing, jointly filed by WHUC and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS,

DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), on December 11, 2007.¹ The commission specifically disallows the inclusion of Tank 1200N-2 in WHUC's plant-in-service for the Test Year, and thus, denies the Parties' proposed step increase in WHUC's water rates associated with the completion and use of Tank 1200N-2 outside of the Test Year.

I.

Background

A.

West Hawaii Utility Company

WHUC is a public utility that provides water and wastewater services to the condominiums, hotels, and other commercial establishments located within the Waikoloa Beach Resort service area on the island of Hawaii.² WHUC also provides irrigation water service to two golf courses. WHUC's sole stockholder is Waikoloa Development Company ("WDC").

West Hawaii Water Company ("WHWC") and West Hawaii Sewer Company ("WHSC") are utilities that are affiliated with WHUC. Specifically, within the Waikoloa Village service area, WHWC provides water service and WHSC provides wastewater service.

¹The Parties in this proceeding are WHUC and the Consumer Advocate, an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

²See In re Waikoloa Resort Util., Inc., Dockets No. 3795 and 3796 (consolidated), Decision and Order No. 6078, filed on February 14, 1980; In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 96-0448, Decision and Order No. 15330, filed on January 23, 1997; and In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 00-0433, Decision and Order No. 18322, filed on January 22, 2001.

In general: (1) WHUC and WHWC, pursuant to a Water Sharing Agreement, jointly own, operate, and maintain a potable water system that includes potable water wells, storage tanks, and transmission and distribution lines; (2) WHUC owns, operates, and maintains a sewage collection system and wastewater treatment facility (overall rated capacity of 1.2 million gallons per day); and (3) WHUC owns, operates, and maintains irrigation wells that pump brackish groundwater that is mixed with treated sewage effluent and then delivered to golf courses for irrigation purposes.

B.

WHUC's Requests

On October 12, 2006, WHUC filed its Notice of Intent to File Rate Increase, informing the commission and the Consumer Advocate of its intent to file an application for a general rate increase no later than December 29, 2006, based on the 2007 calendar test year.³

On December 29, 2006, WHUC filed its Application seeking the commission's approval of general rate increases of: (1) \$1,594,313, or 52% over revenues at present rates for its water service; and (2) \$1,107,089, or 132% over revenues at present rates for its sewer service.⁴ The requested increases

³WHUC's Notice of Intent to File Rate Increase; and Certificate of Service, filed on October 12, 2006 (collectively, "Notice of Intent"). As a public utility with annual gross operating revenues of \$2 million or more, WHUC filed its Notice of Intent in compliance HAR § 6-61-85.

are based on an estimated total revenue requirement of \$6,901,957 for the Test Year (including non-potable irrigation service revenues), and an overall rate of return of 11.8%.

At the time of the filing of its Application, WHUC's present and proposed water and sewer charges were as follows:

Minimum Monthly Water Service Charge

<u>Meter Size</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>% Increase</u>
5/8" & 3/4"	\$7.20	\$10.92	52%
1"	\$13.80	\$20.93	52%
1-1/2"	\$24.20	\$36.70	52%
2"	\$33.00	\$50.04	52%
3"	\$66.00	\$100.09	52%
4"	\$110.00	\$166.81	52%
6"	\$220.00	\$333.62	52%
8"	\$396.00	\$600.52	52%

Monthly Water Quantity Charge

<u>Present Charge</u>	<u>Proposed Charge</u>	<u>% Increase</u>
\$2.68 per thousand gallons ("TG")	\$4.06 per TG	52%

Minimum Monthly Private Fire Service Charge

<u>Meter Size</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>% Increase</u>
4"	\$110.00	\$166.81	52%
6"	\$220.00	\$333.62	52%
8"	\$396.00	\$600.52	52%

'WHUC's Application; Exhibits WHUC 1 to 9-3; and Certificate of Service, filed on December 29, 2006, as supplemented on January 26, 2007 (collectively, "Application"). See Order No. 23266, filed on February 20, 2007 (the filing date of WHUC's completed Application was January 26, 2007). WHUC's Exhibit 9-1 consists of the written direct testimony of its general manager, and its Exhibit 9-2 consists of the written direct testimony of its consultant. WHUC served copies of its Application upon the Consumer Advocate.

Minimum Monthly Sewer Service Charge

<u>Classification</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>% Increase</u>
Residential - Condo/Hotel	\$4.25 per month per living unit	\$9.86 per month per living unit	132%
Commercial	\$10 per connection per month	\$23.21 per connection per month	132%

Monthly Sewer Consumption Charge

(For Residential - Condo/Hotel and Commercial)

<u>Present Charge</u>	<u>Proposed Charge</u>	<u>% Increase</u>
\$1 per TG/metered potable water	\$2.32 per TG/metered potable water	132%

As part of its Application, WHUC also requested the commission's approval to: (1) revise its Power Cost Adjustment Formula ("PCAF"), to reflect current motor efficiencies and electric costs per kWh; and (2) reduce the monthly non-potable irrigation service charge assessed to golf courses, from \$0.30 per TG to \$0.29 per TG, a percentage decrease of approximately 3.3%.

In general, WHUC states that its last increase in rates took effect in 1997,⁵ and since that time: (1) it has and continues to make significant investments in its utility plant to meet the increasing demands on its facilities; and (2) its current rates will not be sufficient to cover its operating costs in the future, or to earn a fair rate of return.

⁵See In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 96-0366, Interim Decision and Order No. 15983, filed on September 30, 1997 (1997 calendar test year rate case); and Decision and Order No. 16372, filed on June 9, 1998 (1997 calendar test year rate case).

C.

WHUC's Completed Application

On January 19, 2007, the Consumer Advocate filed its Statement of Position Regarding the Completeness of Application, stating that WHUC "has not strictly complied with the requirements of HAR Chapter 61, Subchapters 6 and 8, pertaining to general rate increase applications for public utilities with annual gross operating revenues of \$2,000,000 or more."⁶

On January 26, 2007, WHUC filed its Response to the Division of Consumer Advocacy's Statement of Position Regarding Completeness of Application, by which WHUC provided additional information to supplement its Application.⁷ On January 31, 2007, the Consumer Advocate filed its Supplemental Statement of Position Regarding Completeness of Application, stating that based on the additional information submitted by WHUC, it appeared that WHUC was now in compliance with the requirements of "HAR Chapter 61, Subchapters 6 and 8, pertaining to general rate increase applications for public utilities with annual gross operating revenues of \$2,000,000 or more."⁸

⁶Consumer Advocate's Statement of Position Regarding Completeness of Application; and Certificate of Service, filed on January 19, 2007, at 1.

⁷WHUC's Response to the Division of Consumer Advocacy's Statement of Position Regarding Completeness of Application; WHUC Exhibit 2E; and Certificate of Service, filed on January 26, 2007.

⁸Consumer Advocate's Supplemental Statement of Position Regarding Completeness of Application; and Certificate of Service, filed on January 31, 2007, at 1.

On February 20, 2007, the commission held that the filing date of WHUC's completed Application was January 26, 2007.⁹

D.

Public Hearing Process

The commission's Notice of Public Hearing was published statewide in various newspapers, in accordance with HRS §§ 1-28.5, 269-12(c), and 269-16(b).¹⁰ On March 12, 2007, WHUC notified its ratepayers by letter of the date, time, and location of the public hearing, in accordance with HRS § 269-12(c).¹¹ On March 28, 2007, the commission held a public hearing on the requests set forth in WHUC's completed Application, at the Waikoloa Elementary School Cafeteria, pursuant to HRS §§ 269-12(c) and 269-16(b). At the public hearing, WHUC's counsel, the Consumer Advocate, and two ratepayers testified, and audience members engaged in a question and answer session with WHUC's representatives.¹²

⁹Order No. 23266, filed on February 20, 2007.

¹⁰Specifically, the commission's Notice of Public Hearing was published on March 5, 12, 19, and 26, 2007, in The Garden Island, Hawaii Tribune-Herald, Honolulu Star-Bulletin, The Maui News, and West Hawaii Today.

¹¹See WHUC's letter, dated March 13, 2007, with a copy of the letter to WHUC's ratepayers enclosed; and WHUC's letter, dated April 10, 2007, confirming that copies of the Notice of Public Hearing were only sent to WHUC's customers, and not to anyone in the Waikoloa Village service area.

¹²The commission also received written comments from interested persons. See Commission's letter, dated March 30, 2007, with enclosures.

E.

Consumer Advocate's Direct Testimonies
and WHUC's Reply Statement of Position

The Parties engaged in the discovery process in accordance with Order No. 23351, filed on April 10, 2007, as modified on June 15, 2007.¹³ Following the completion of discovery, the Consumer Advocate, on June 22, 2007, filed its Direct Testimonies, Exhibits, and Workpapers.¹⁴ On July 20, 2007, WHUC filed its Statement of Position.¹⁵

F.

Waiver of the Nine-Month Deadline for
Issuance of the Commission's Final Decision

By Order No. 23551, filed on July 18, 2007, the commission approved the Parties' voluntary and intentional waiver of issuance of the commission's final decision within nine months from the filing date of WHUC's completed Application for a

In general, the affected ratepayers expressed concerns with the magnitude of the increases in the water and sewer rates proposed by WHUC, with some urging that the commission deny WHUC's request. The commission also received written comments from non-ratepayer students who attended the public hearing as part of a class project.

¹³See Commission's letter, dated June 15, 2007.

¹⁴Consumer Advocate's Direct Testimonies, Exhibits, Workpapers, and Certificate of Service, filed on June 22, 2007. The Consumer Advocate's Direct Testimonies consist of the written testimonies of its utilities administrator (CA-T-1), public utilities and transportation specialist (CA-T-2), and consultant (CA-T-3).

¹⁵WHUC's Statement of Position, Exhibits 1 to 21, and Certificate of Service, filed on July 20, 2007. WHUC's exhibits include the written testimonies of its development manager (Exhibit 7), chief field engineer (Exhibit 8), and consultant (Exhibit 19).

general rate increase, i.e., by October 26, 2007. Thereafter, by Order No. 23675, filed on September 21, 2007, the commission approved "[t]he Parties' request to continue the prehearing conference and evidentiary hearing, and to reset the corresponding deadline dates to govern the remainder of this proceeding[.]"¹⁶ As a result, the commission noted that "the eleven-month deadline [set forth in HRS § 269-16(d)] for the commission to issue its interim rate decision applies, which is on or about December 26, 2007[.]"¹⁷

G.

Joint Statement of Probable Entitlement
and Stipulation in Lieu of Hearing

On November 28, 2007, the Parties filed their Joint Statement of Probable Entitlement for interim relief purposes,¹⁸ informing the commission that:

1. On November 8, 2007, the Parties reached a settlement on all of the disputed issues.

¹⁶Order No. 23675, filed on September 21, 2007, Ordering ¶ No. 1, at 9.

¹⁷Order No. 23675, at 7.

¹⁸Joint Statement of Probable Entitlement; Exhibits A - F; and Certificate of Service, filed on November 28, 2007 (collectively, "Joint Statement").

Order No. 23675 required WHUC to file its Statement of Probable Entitlement, or the Parties to file a Joint Statement of Probable Entitlement, by November 26, 2007. On November 29, 2007, the commission approved the Parties' timely request for an extension of time, from November 26, 2007 to November 28, 2007, to file their Joint Statement of Probable Entitlement. See Parties' joint letter, dated November 26, 2007; and Commission letter, dated November 29, 2007.

2. For interim rate relief purposes, the Parties request that the commission grant the stipulated increases in water and sewer charges and stipulated decrease in the non-potable irrigation service charge, as reflected in the Joint Statement, asserting that in the absence of interim rate relief, WHUC may be denied an opportunity to earn a fair return on its rate base.

3. "[T]he Parties acknowledge that WHUC will be required to refund its customers any excess amounts collected, together with interest, in accordance with the interim relief granted by the Commission if the final increase approved by the Commission as part of this proceeding is less than the total interim increase granted by the Commission, as required by HRS § 269-16(d)."¹⁹

Two weeks later, on December 11, 2007, the Parties filed their Stipulation in Lieu of Hearing, for final rate relief purposes.²⁰

H.

Interim Decision

On December 21, 2007, the commission timely issued Interim Decision and Order No. 23925, which approved, on an interim basis, the stipulated increases in water and sewer charges, and the stipulated decrease in the non-potable

¹⁹Joint Statement, at 21.

²⁰Stipulation in Lieu of Hearing; Certificate of Service; and Exhibits 1 and 2, filed on December 11, 2007 (collectively, "Stipulation").

irrigation service charge, for WHUC, as reflected in the Parties' Joint Statement. Specifically, the commission approved, on an interim basis: (1) an across-the-board increase in WHUC's water rates of 16.5 percent; (2) an across-the-board increase in WHUC's sewer rates of 42 percent, under the first phase of a proposed two-step phase-in; and (3) a decrease in WHUC's non-potable irrigation service charge of 13.3 percent. Thus, on a consolidated operations basis, the commission authorized WHUC to "increase its rates, on an interim basis, to such levels as will produce, in the aggregate, \$1,146,512 in additional revenues for the test year (approximately 27 percent over revenues at present rates)." ²¹

On December 31, 2007, WHUC's interim rates took effect, consistent with Interim Decision and Order No. 23925, as follows: ²²

²¹Interim Decision and Order No. 23925, Ordering ¶ No. 1, at 19. On December 21, 2007, the commission also approved the Parties' voluntary and intentional waiver of the evidentiary hearing, and thus, cancelled the prehearing conference and the evidentiary hearing. Order No. 23924, filed on December 21, 2007.

²²See Interim Decision and Order No. 23925, Ordering ¶ No. 2, at 19 (the interim rates shall take effect from December 31, 2007, provided that WHUC shall file its revised tariff rates by December 28, 2007, with the applicable issued and effective dates); and WHUC's letter, dated December 28, 2007, transmitting its updated tariff sheets.

Minimum Monthly Water Service Charge

<u>Meter Size</u>	<u>Interim Rates</u>	<u>% Increase</u>
5/8" & 3/4"	\$8.39	16.5%
1"	\$16.08	16.5%
1-1/2"	\$28.20	16.5%
2"	\$38.46	16.5%
3"	\$76.92	16.5%
4"	\$128.20	16.5%
6"	\$256.41	16.6%
8"	\$461.53	16.5%

Monthly Water Quantity Charge

<u>Interim Charge</u>	<u>% Increase</u>
\$3.12 per TG	16.4%

Minimum Monthly Private Fire Service Charge

<u>Meter Size</u>	<u>Interim Rates</u>	<u>% Increase</u>
4"	\$128.20	16.5%
6"	\$256.41	16.6%
8"	\$461.53	16.5%

Minimum Monthly Sewer Service Charge**

<u>Classification</u>	<u>Interim Rates</u>	<u>% Increase</u>
Residential - Condo/Hotel	\$6 per month per living unit	41.2%
Commercial	\$14.20 per connection per month	42%

Monthly Sewer Consumption Charge**

(For Residential - Condo/Hotel and Commercial)

<u>Interim Charge</u>	<u>% Increase</u>
\$1.42 per TG/metered potable water	42%

**As noted by the Parties, the "proposed rates for [sewer service] represent the first 50 percent of the phased-in increase. The Parties have agreed that the second 50 percent of the phased-in increase for the sewer system will become effective six months after the Commission's order."²³

²³Joint Statement, at 21 n.5.

Monthly Non-Potable Irrigation Consumption Charge
(for Golf Courses)

<u>Interim Charge</u>	<u>% Decrease</u>
\$0.26 per TG	13.3%

I.

Issues

The underlying issue in this proceeding is whether WHUC's proposed rate increases (and decrease), and any other proposed tariff changes, are just and reasonable.²⁴ This issue, in turn, involves the review and adjudication of the following sub-issues:

1. Are the proposed rates, charges, and tariff changes just and reasonable?
2. Are the revenue forecasts for the Test Year at present and proposed rates reasonable?
3. Are the projected operating expenses for the Test Year reasonable?
4. Is the projected rate base for the Test Year reasonable, and are the properties included in the rate base used and useful for public utility purposes?
5. Whether the requested rate of return is fair?

II.

Discussion

HRS § 269-16 states in relevant part:

§269-16 Regulation of utility rates; ratemaking procedures. (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public

²⁴See Order No. 23351, Exhibit 1, at 2.

utility or by two or more public utilities jointly shall be just and reasonable and shall be filed with the public utilities commission. The rates, fares, classifications, charges, and rules of every public utility shall be published by the public utility in such manner as the public utilities commission may require, and copies shall be furnished to any person on request.

To the extent the contested case proceedings referred to in chapter 91 are required in any rate proceeding to ensure fairness and to provide due process to parties that may be affected by rates approved by the commission, the evidentiary hearings shall be conducted expeditiously and shall be conducted as a part of the ratemaking proceeding.

(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission as prescribed in section 269-12(b), and prior approval by the commission for any increases in rates, fares, or charges. The commission, in its discretion and for good cause shown, may allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for in section 269-12(b). A contested case hearing shall be held in connection with any increase in rates, and the hearing shall be preceded by 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 commission, upon notice to the public utility, may:

- (1) Suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom;

(2) After a hearing, by order:

- (A) Regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices so that the same shall be just and reasonable;
- (B) Prohibit rebates and unreasonable discrimination between localities or between users or consumers under substantially similar conditions;
- (C) Regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public;
- (D) Prescribe its form and method of keeping accounts, books, and records, and its accounting system;
- (E) Regulate the return upon its public utility property;
- (F) Regulate the incurring of indebtedness relating to its public utility business; and
- (G) Regulate its financial transactions; and

(3) Do all things that are necessary and in the exercise of the commission's power and jurisdiction, all of which as so ordered, regulated, fixed, and changed are just and reasonable, and provide a fair return on the property of the utility actually used or useful for public utility purposes.

.

(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 carrying out this mandate, the commission shall require all parties to a proceeding to comply strictly with procedural time schedules it establishes. If a decision is rendered after the nine-month period, the commission shall report in

writing the reasons therefore to the legislature within thirty days after rendering the decision.

.

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may, within twenty-one days after receipt, object to the sufficiency of any application, and the commission shall hear and determine any objection within twenty-one days after it is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant to submit an amended application consistent with its findings, and the nine-month period shall not commence until the amended application is filed.

HRS § 269-16.

As a public utility with annual gross operating revenues of \$2 million or more, WHUC filed its completed Application pursuant to: (1) HRS § 269-16, excluding subsection (f);²⁵ and (2) HAR §§ 6-61-75, 6-61-86, and 6-61-87.²⁶

²⁵The provisions of HRS § 269-16(f) apply to public utilities with annual gross revenues of less than \$2 million.

²⁶HAR §§ 6-61-75, 6-61-86, and 6-61-87 set forth the requirements governing applications for a general rate increase filed by public utilities with annual gross revenues of \$2 million or more.

A.

Stipulation: Terms and Conditions

The Stipulation reflects the Parties' global settlement of all issues. In reaching their global settlement, the Parties note:

1. The existing docket record, including the Stipulation, reflects "a sufficient representation of the facts in this matter as to the resolved issues, so as to permit the Commission to reach a determination on the issues presented[.]"²⁷
2. The Stipulation, binding between them, "represents a negotiated compromise of the matters stipulated to herein, and is not and shall not be deemed to be an admission by any party with respect to any of the matters stipulated to herein."²⁸
3. The Parties stipulate to the rate components discussed in the Stipulation "as being reasonable for purposes of deriving the revenue requirement for the 2007 test year, without necessarily agreeing on the underlying methodologies or justifications asserted by either party."²⁹
4. "The Parties reserve their respective rights to proffer, use and defend different positions, arguments, methodologies, or claims regarding the matters stipulated to herein in other dockets or proceedings. The Parties agree that the matters stipulated to and the Parties' respective positions shall not be used as precedence or as evidence of the party's position, or used in any way, in other dockets or proceedings. At the same time, the Parties agree that this Stipulation, taken in its entirety and given the evidence in the record, represents a reasonable resolution of the matters compromised herein."³⁰
5. Each provision of the Stipulation is in consideration and support of all other provisions, and is expressly conditioned upon the commission's

²⁷Stipulation, at 1.

²⁸Stipulation, at 6.

²⁹Stipulation, at 5.

³⁰Stipulation, at 6.

acceptance of the matters contained in the Stipulation as a whole.

"Should the Commission decline to adopt any one of the matters agreed to in this Stipulation according to the terms agreed upon by the Parties, the Parties shall be free to pursue their respective positions in this proceeding through motions for clarification, reconsideration, or rehearing as to any or all matters covered by this Stipulation."³¹

Ultimately, the Parties acknowledge that the commission "is not bound by any stipulation between the Parties[.]"³² In this regard, it is well-settled 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. In re Hawaiian Elec. Co., Inc., 5 Haw. App. 445, 698 P.2d 304 (1985). With this mandate, the commission proceeds in reviewing whether the Parties' Stipulation appears just and reasonable, taken as a whole.

B.

Tank 1200N-2

At the outset, the commission finds it prudent to review the Parties' agreement with respect to the proposed ratemaking treatment of WHUC's Tank 1200N-2, as set forth in their Stipulation.

³¹Stipulation, at 36.

³²Stipulation, at 2.

By way of background, in Interim Decision and Order No. 23925, the commission, based on its review of the Parties' Joint Statement, held:

Results of Operation

Following the filing of their respective position statements, the remaining issues in dispute between the Parties consisted of: (1) WHUC's test year customer and meter counts for its operating revenues associated with its water service; (2) for its water operations, WHUC's test year expenses for electricity, pumping maintenance ("Account No. 620.2"), transmission and distribution/mains ("Account No. 620.6"), and pumping/operations/contracts ("Account No. 635.1"); (3) WHUC's test year expenses for general and administrative/salaries and wages, and general and administrative/regulatory commission; (4) the use of a year-end vs. average test year rate base; (5) the inclusion of certain plant additions in WHUC's test year rate base, and the issue of excess capacity raised by the Consumer Advocate; (6) the appropriate test year contributions-in-aid-of-construction ("CIAC") amounts for WHUC's water and sewer operations; (7) WHUC's test year accumulated deferred income tax ("ADIT") amounts for its water, sewer, and irrigation operations; (8) WHUC's test year unamortized balance for the Hawaii State Capital Goods Excise Tax Credit ("HSCGETC"); (9) WHUC's rate of return for the test year; and (10) the Consumer Advocate's proposal to phase-in the increases in WHUC's water and sewer charges ultimately approved by the commission, in order to mitigate the possibility of rate shock to WHUC's ratepayers.

The Parties, as a result of their settlement discussions, have addressed and resolved all of their disputed issues. Thus, the Parties, for purposes of interim rate relief, have stipulated to: (1) customer and meter counts and the use of the average test year concept in forecasting WHUC's operating revenues; (2) the test year electricity expense for WHUC's water operations, based on a 7.552 percent water loss factor; (3) the test year expenses for Accounts Nos. 620.2, 620.6, and 635.1, reflecting certain adjustments proposed by the Consumer Advocate and WHUC, respectively; (4) the test year expense amounts for general and administrative/salaries

and wages, as requested in WHUC's completed Application; (5) the test year expense amount for administrative/regulatory commission, based on a five-year amortization period and reflecting a slight downward adjustment to reflect the actual consultant contract amount; (6) the use of an average test year rate base; (7) the exclusion from the average test year rate base of: (A) all capital expenditures associated with the Tank 1200N-2 expansion project and SPS #2 replacement project, respectively; and (B) 19 percent of the capital expenditures associated with Tanks 300-2 and 3, attributed to excess capacity; (8) increases in the amounts for the test year unamortized CIAC balances for WHUC's water and sewer operations, from the amounts reflected in WHUC's completed Application; (9) the use of the Consumer Advocate's recommended partial normalization methodology in determining the test year ADIT amounts for WHUC's water, sewer, and irrigation operations; (10) the test year unamortized balance for HSCGETC, based on certain additional information provided to the Consumer Advocate by WHUC; (11) a rate of return of 8.94 percent, representing the highest rate of return percentage within the 8.42 to 8.94 percentage range recommended by the Consumer Advocate; and (12) the implementation of a two-step phase-in increase for WHUC's sewer charges, with no phase-in for WHUC's water and irrigation charges.

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For purposes of this Interim Decision and Order, the commission accepts the agreements memorialized by the Parties in their Joint Statement, including the 8.94 percent rate of return on the average depreciated rate base of \$5,210,770 (consolidated operations basis). Accordingly, the commission concludes that interim rate relief in the amount of \$1,146,512 in additional revenues, or an approximate 27 percent increase in revenues over present rates (consolidated operations basis), is appropriate. Based on the record, it appears that WHUC 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 WHUC's need for immediate rate relief and protects the interests of the ratepayers.

Interim Decision and Order No. 23925, at 11-13 (footnotes, text, and citations therein omitted) (emphasis added).

With respect to the Parties' agreement, for interim rate relief purposes, to exclude from WHUC's average test year rate base the capital expenditures associated with Tank 1200N-2, the commission noted:

Concomitantly, "[t]he Parties also agreed to implement a step increase outside of the test year to coincide with the in-service date of Tank 1200N-2, subject to the completion of Tank 1200N-2 by the end of 2008. This step increase, however, does not affect the interim rates to which WHUC is entitled." Joint Statement, at 13 n.4 (emphasis added). This Interim Decision and Order, the commission makes clear, does not address the Parties' "agreement to implement a step increase outside the test year to coincide with the in-service date of Tank 1200N-2, subject to the completion of Tank 1200N-2 by the end of 2008."

Interim Decision and Order No. 23925, at 11-12 n.20 (emphasis in original).

To a large extent, the Parties' resolution of the disputed issues, as reflected in their Joint Statement, is likewise incorporated in their subsequent Stipulation,³³ subject to one material difference. The Parties, as part of their Stipulation, agree to a step increase in WHUC's water rates, if Tank 1200N-2 is placed in service by the end of 2008:³⁴

³³Indeed, the Parties, by their Stipulation, essentially incorporate by reference the joint revenue requirement schedules that are attached to their Joint Statement. These joint revenue requirement schedules, in turn, were adopted by the commission in its Interim Decision and Order No. 23925, as Exhibits A - D.

³⁴The Parties' stipulated revenue requirement schedules associated with the step increase for Tank 1200N-2 are reflected in the exhibits attached to the Stipulation, Exhibits 1 and 2 thereto.

During settlement negotiations, WHUC informed the Consumer Advocate that construction had commenced on Tank 1200N-2 in September 2007 and would probably be placed in-service by the end of the second quarter of 2008. Given the commencement of construction on Tank 1200N-2, combined with the present vulnerability of the north well field and the anticipated need to repair Tank 1200N-1, the Consumer Advocate agreed that the completion of Tank 1200N-2 appeared to be definite and necessary. The Consumer Advocate, however, expressed concern regarding a test year return on an item which appears to address future needs and will be completed outside the test year. The Parties therefore agreed that all capital expenditures associated with Tank 1200N-2 would be excluded from the test year rate base, but that WHUC would be allowed to include the capital expenditures associated with Tank 1200N-2 in its 2008 rate base if Tank 1200N-2 is placed in service by the end of 2008. By implementing this step increase, the Consumer Advocate would be able to ensure the completion and use of Tank 1200N-2, while allowing WHUC to receive a rate of return on its capital investment. Accordingly, the Parties agreed that, upon the 2008 in-service date of Tank 1200N-2, WHUC will be entitled to an additional \$607,397 in its total water system rate base. See Stipulation Exhibit 1, attached hereto.

Stipulation, at 20-21 (emphasis added).

WHUC's test year period is from January 1, 2007 to December 31, 2007, in accordance with HAR § 6-61-87(4)(B). HRS § 269-16(b)(3) states in relevant part that a public utility's rates "shall provide a fair return on the property of the utility actually used or useful for public utility purposes." As set forth in sub-issue number 4, the commission must review whether WHUC's projected rate base for the Test Year is reasonable, and whether the properties that are included in WHUC's rate base are used and useful for public utility purposes.

"It is axiomatic that allowing the recovery of out-of-test year costs violates the test year concept."³⁵

Here, there is no credible evidence in the docket record that Tank 1200N-2 was completed and used and useful during the 2007 calendar test year period.³⁶ Instead, WHUC informed the Consumer Advocate that the construction of Tank 1200N-2 commenced in September 2007, "and would probably be placed in-service by the end of the second quarter of 2008."³⁷ In addition, the Parties refer to the "2008 in-service date of Tank 1200N-2[.]" and readily acknowledge that the proposed step increase in WHUC's water rates is "outside the test year and subject to the completion and in-service placement of Tank 1200N-2 in 2008."³⁸

The Parties' agreement of a future step increase in WHUC's water rates following the completion and in-service date of Tank 1200N-2 outside of the 2007 calendar test year period: (1) violates the test year concept; (2) sets a precedent this commission declines to establish; and (3) is neither just nor reasonable under the circumstances.³⁹ "Moreover, if [WHUC]

³⁵In re Hawaii Water Serv. Co., Inc. ("In re HWSCI"), Docket No. 03-0375, Decision and Order No. 21644, filed on February 11, 2005, at 24 (citations therein omitted).

³⁶See WHUC's response to CA-SIR-9 (WHUC no longer anticipates that Tank 1200N-2 will be completed within the Test Year; it is anticipated that Tank 1200N-2 will be completed by the second quarter of 2008); and WHUC Exhibit 7, at 4 (the construction of Tank 1200N-2 is expected to be completed in the second quarter of 2008).

³⁷Stipulation, 20.

³⁸Stipulation, at 21 and 33.

³⁹See In re HWSCI, Docket No. 03-0275, Decision and Order No. 21644, at 15-16.

believes that it is entitled to a future rate increase for capital projects completed beyond the test year, State of Hawaii ("State") law affords [WHUC's] ratepayers the opportunity to review and comment on any such future request, in accordance with HRS §§ 269-12(c) and 269-16(b) and (c)."⁴⁰

The commission recognizes that the Parties' Stipulation is "expressly conditioned upon acceptance by the Commission of the matters expressed in [the] Stipulation as a whole."⁴¹ Nonetheless, consistent with its independent obligation to set just and reasonable rates and arrive at its own conclusion, the commission denies this portion of the Parties' Stipulation involving the future step increase in WHUC's water rates, relating to the completion and use of Tank 1200N-2 outside of the Test Year.⁴² The Parties are cognizant that the commission is not bound by the terms of the Stipulation.⁴³

Accordingly, the commission, in this instance, will not reject the Parties' Stipulation in toto. Instead, upon the commission's issuance of this Decision and Order, the Parties, at their option, are "free to pursue their respective positions in this proceeding through [timely] motions for clarification,

⁴⁰In re HWSCI, Docket No. 03-0275, Decision and Order No. 21644, at 16.

⁴¹Stipulation, at 36.

⁴²See In re HWSCI, Docket No. 03-0275, Decision and Order No. 21644, at 16.

⁴³See Stipulation, at 2.

reconsideration, or rehearing as to any or all matters covered by this Stipulation."⁴⁴

In sum, the commission: (1) disallows the inclusion of the costs associated with Tank 1200N-2 in WHUC's Test Year plant-in-service; and (2) denies the Parties' proposed step increase in WHUC's water rates associated with the completion and use of Tank 1200N-2 outside of the Test Year. With this ruling, the commission proceeds with reviewing the justness and reasonableness of the Parties' agreement of the Test Year increase in WHUC's rates, in the absence of Tank 1200N-2 in WHUC's plant-in-service.

C.

Operating Revenues

WHUC initially forecasted its Test Year operating revenues at present rates, as follows: \$3,087,009 in water revenues, \$838,056 in sewer revenues, and \$286,760 in irrigation revenues, for a sum of \$4,211,825 in total revenues.⁴⁵ The Consumer Advocate forecasted WHUC's Test Year operating revenues at present rates, as follows: \$3,085,848 in water revenues, \$832,875 in sewer revenues, and \$286,760 in irrigation revenues (the same as WHUC's forecast), for a sum of \$4,205,483 in total revenues.⁴⁶

⁴⁴Stipulation, at 36.

⁴⁵Exhibit WHUC 9-3, at 10-18.

⁴⁶Exhibit CA-101.

WHUC, in response, incorporated into its rebuttal exhibits the Consumer Advocate's forecasted amount for sewer revenues, of \$832,875 (rounded to \$832,877), and the Parties' agreed-upon amount of \$286,760 in irrigation revenues.⁴⁷ Later, the Parties agreed to a forecasted amount of \$3,048,013 in water revenues.⁴⁸ Thus, the Parties' stipulated estimates for WHUC's Test Year operating revenues at present rates are as follows:⁴⁹

<u>Classification</u>	<u>Present Rates</u>
Water	
Service Charge	\$34,457
Quantity Charge	\$2,972,372
Private Fire Protection Charge	<u>\$41,184</u>
Total Water Revenues	\$3,048,013
Sewer	
Service Charge	\$143,859
Consumption Charge	<u>\$689,018</u>
Total Sewer Revenues	\$832,877
Irrigation Revenues	\$286,760
Total Revenues, Present Rates	\$4,167,650

The water revenues are based on a meter count of 85 for the service charge, water sales of 1,109,094 TG for the quantity charge, and a meter count of 14 for the private fire protection charge. The sewer revenues are based on 2,814 sewer connections for the service charge, and water sales of 689,018 TG for the

⁴⁷WHUC Exhibits 21 and 21a.

⁴⁸WHUC/CA Joint Exhibits A, E, and F.

⁴⁹See WHUC/CA Joint Exhibits A and F; see also Exhibit CA-101 and WHUC Exhibits 21 and 21a.

consumption charge. The irrigation revenues are based on non-potable water sales of 955,865 TG, for the two golf courses.

The Parties' stipulated estimates for WHUC's Test Year operating revenues at present rates are supported by the docket record.⁵⁰ Accordingly, the commission accepts as reasonable the Parties' stipulated amounts.

D.

Operating Expenses

The Water Sharing Agreement outlines the methodology by which WHUC and WHWC share in the costs of developing, operating, and maintaining the potable well fields located at elevation 1,200 feet and higher, east of Waikoloa Village.

Moreover, "WHUC does not retain its own employees and instead relies on employees of WDC to provide the support required to operate [WHUC's] utility operations and the utility operations of WHSC and WHWC, WHUC's affiliates. Each utility company is charged for costs incurred by WDC to provide the support services to each utility. The factor used to allocate the total projected test year cost incurred by WDC to support WHUC's operations is based on the time expected to be spent by WDC's employees performing various tasks on behalf of WHUC. The actual allocations are based on the actual support costs and the actual time spent by WDC's employees."⁵¹

⁵⁰See WHUC/CA Joint Exhibits A, E, and F; see also Exhibit WHUC 9-3, at 10-18; Exhibit CA-101; and WHUC Exhibits 21 and 21a.

⁵¹Joint Statement, at 6; and Stipulation, at 8.

WHUC's Test Year expenses for its water, sewer, and irrigation services consist of the following categories: (1) operations and maintenance, including general and administrative; (2) depreciation; (3) taxes other than income taxes, otherwise known as revenue taxes; and (4) income taxes.

1.

Operations and Maintenance Expense

The Parties' stipulated estimates for WHUC's Test Year operations and maintenance expenses at present rates for the public utility's water, sewer, and irrigation systems, are as follows:

<u>Water System</u>	<u>Present Rates</u>
601.1 Pumping - Oper. Labor	\$26,509
602.2 Pumping - Maint. Equip.	\$3,239
601.3 Water Treat. Labor	\$11,875
601.4 Water Treat. - Maint. Labor	\$3,229
601.5 Trans. & Dist.	
- Oper. & Maint.	\$11,754
601.6 Trans. & Dist. Maint. Mains	\$19,359
615.1 Pumping - Oper.	
Fuel & Power	\$1,736,666
618.3 Water Treat. - Chemicals	\$7,992
620.1 Pumping - Oper. Expense	\$4,776
620.2 Pumping - Maint. of Equip.	\$6,234
620.3 Water Treat. - Expenses	\$1,128
620.4 Water Treat.	
- Maint. - Expense	\$3,720
620.5 Trans. & Dist. Oper. Expense	\$2,028
620.6 Trans. & Dist. Mains Expenses	\$11,262
620.6.1 Trans. & Dist. - Maint. Mains	
- Amort.	-
635.1 Pumping - Oper. - Contract	\$23,786
635.2 Pumping - Maint. - Contract Svcs	-
635.3 Water Treat. Contract Svcs	\$1,440
635.5 Dist - Oper. & Maint.	
Contract Svcs	\$3,504
635.6 Trans. - Oper. & Maint.	
Contract Svcs	\$33,204
642.1 Equipment leases	-

General and administrative	<u>\$444,600</u>
Total, operations and maintenance	\$2,356,305

<u>Sewer System</u>	<u>Present Rates</u>
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701.3	Pumping - Oper. Expense	\$26,415
701.4	Pumping - Maint. of Pump Equip.	\$19,475
701.5	Treat. & Disp. - Oper. Labor	\$224,772
701.6	Trans. & Dist. Maint. of T&D Plant - Expense	\$37,057
715.3	Pumping - Oper. Fuel & Power	\$66,948
715.5	Treat. & Disp. - Fuel/Power	\$210,384
718.5	Treat. & Disp. - Oper. Chemicals	\$33,300
720.3	Pumping - Other Oper. Expense	\$5,544
720.4	Pumping - Main of Pump Equip. Expense	\$13,572
720.5	Treat. & Disp. - Oper. Expense	\$47,688
720.6	Trans. & Dist. Maint. of T&D Plant - Expense	\$24,012
720.5.2	Treat. & Disp. - Oper. - Purch. Water	\$2,220
735.3	Pumping Oper. - Contract Svcs.	\$3,996
735.4	Pumping Maint. - Contract Svcs.	\$10,404
735.5	Treat. & Disp. - Contract Svcs.	\$8,496
735.6	Treat. & Disp. - Maint. Contract	\$27,264
742.3	Equipment Leases	\$21,072
742.5	Rental of Equipment	-

General and administrative	<u>\$179,588</u>
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Total, operations and maintenance	\$962,207
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<u>Irrigation System</u>	<u>Present Rates</u>
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601.1	Pumping - Oper. Labor	\$6,011
601.2	Pumping - Maint. Supv. & Engrg	\$2,851
601.3	Water Treat. Labor	\$5,547
615.1	Pumping - Purchased Power	\$92,208
620.1	Pumping - Oper. Expense	\$1,044
620.2	Pumping - Maint. Supv. & Engrg	\$1,428

620.3	Water Treat. Expenses	\$708
620.6	Irrigation Trans. & Dist. Materials	-
635.2	Pumping Maint. - Contract Svcs	\$7,032
642.5	Rental of Equipment	-
General and administrative		<u>\$26,809</u>
Total, operations and maintenance		\$143,638

The Parties' respective estimates of WHUC's general and administrative expenses, and the corresponding allocations to the public utility's water, sewer, and irrigation operations, are as follows:

<u>General and Administrative</u>		<u>Present Rates</u>
408.1	Real Prop. Tax	-
601.7	Customer Rec. & Collect.	\$2,431
601.8	Salaries - Admin. & Gen.	\$223,656
601.8	Account - Salaries	\$64,461
620.8	Office Supp. & Gen. Exp.	\$2,820
631.8	Contract Svcs - Eng.	\$42,252
632.8	Accounting - Tax/Audit	\$43,680
632.8	Contract Svcs - Acct	\$15,768
633.8	Contract Svcs - Legal	\$2,736
633.8	Outside Svcs	-
634.8	Contract Svcs - Mgmt Fee	\$21,240
641.8	Admin. & Gen. - Oper. Rent	\$102,828
642.5	Equip. Lease Exp.	\$20,712
650.8	Transport Exp. - Labor	\$6,617
657.8	Liability Insurance	\$28,992
658.8	Excess Workers Comp. Ins.	-
659.8	Property Insurance	\$37,404
666	Reg. Comm. Exp. - Rate Case Amort.	\$30,480
675.8	Travel & Ent.	-
675.8	Miscellaneous Exp.	\$4,920
930.2	Miscellaneous Gen. Exp.	-
Total, general and administrative		\$650,997
Water allocation		\$444,600
Sewer allocation		\$179,588
Irrigation allocation		<u>\$26,809</u>
		\$650,997

In general, the operations and maintenance expense amounts (excluding rate case amortization) represent the normalized level of funds WHUC will expend during the Test Year to maintain and operate its facilities to provide: (1) water service to its ratepayers; (2) wastewater collection and treatment services to its ratepayers; and (3) non-potable irrigation water to the two golf courses.⁵² Rate case amortization, meanwhile, represents the reasonable amount of expenses incurred by WHUC to process this rate case, as agreed-upon by the Parties, amortized over a five-year period.⁵³

The Parties' estimates for WHUC's Test Year operations and maintenance expense are generally supported by the docket record,⁵⁴ and include a water loss factor of 7.552 percent for WHUC's electricity expense relating to the utility's water operations, as agreed-upon by the Parties.⁵⁵ Meanwhile, the amount for rate case amortization reflects WHUC's actual costs incurred to-date, including the actual consultant contract

⁵²See Exhibit WHUC 9-3, Appendix C, Narrative Description of Water, Sewer, and Irrigation Operating Expense Accounts for the Test Year 2007, at 76-81; and Exhibit WHUC 9-3, Narrative Description of General and Administrative Expenses for the Test Year 2007, at 84-85.

⁵³See Stipulation, Section II.B.1, Regulatory Commission Expense, at 7-8.

⁵⁴See WHUC/CA Joint Exhibits B and F; see also Stipulation, Section III.B, General and Administrative Expenses, at 7-11, Section III.C, Water System Expenses, at 11-15, Section III.D, Sewer System Expenses, at 15-16, and Section III.E, Irrigation System Expenses, at 16-17; Exhibit WHUC 9-3, at 19-24; and WHUC Exhibits 21a and 21c.

⁵⁵See Stipulation, Section III.C.1, Water Electricity Expense, at 11-12.

amount, pursuant to the Parties' agreement.⁵⁶ The commission finds reasonable the Parties' stipulated amounts for operations and maintenance expense.

2.

Depreciation Expense

In general, depreciation expense represents the systematic write-off of the cost of a plant's asset over the asset's depreciable life.⁵⁷

WHUC/CA Joint Exhibit F of the Stipulation sets forth the Parties' agreed-upon calculations for WHUC's Test Year depreciation expense. Based on the agreements reached by the Parties on the Test Year plant-in-service amounts and for purposes of settlement, the Parties stipulate to a Test Year depreciation expense amount of \$750,154 on a consolidated operations basis, as follows:

Water System	\$412,062
Sewer System	\$313,953
Irrigation System	<u>\$24,139</u>
Total, depreciation expense	\$750,154

Based on the Parties' agreed-upon net plant-in-service amounts for the Test Year (see Section II.E.1, below), the commission finds reasonable the stipulated amounts for depreciation expense.⁵⁸

⁵⁶See Stipulation, Section II.B.1, Regulatory Commission Expense, at 7-8.

⁵⁷In re Young Bros., Ltd., Docket No. 2006-0396, Decision and Order No. 23714, filed on October 12, 2007, at 45.

⁵⁸In footnote 4 of the Stipulation:

Revenue Taxes

The Parties' estimates for revenue taxes at present and proposed rates for the Test Year are as follows:

	<u>Present Rates</u>	<u>Proposed Rates</u>
Water	\$194,616	\$226,821
Sewer	\$53,179	\$96,681
Irrigation	<u>\$18,310</u>	<u>\$15,807</u>
Total	\$266,105	\$339,309

WHUC's revenue taxes consist of the public company service tax (5.885 percent) and the public utility

The Parties note that the test year depreciation expense does not account for amortization of CIAC. This was an error which originated with the Consumer Advocate during initial settlement discussions and was not acknowledged until well after the Parties had reached a settlement agreement establishing a test year revenue requirement as \$5,314,163. The Parties, however, agreed that for settlement purposes and in the interests of reaching a global test year revenue requirement of \$5,314,163, the total test year depreciation expense will be \$750,154.

Stipulation, at 26 n.4; see also Exhibit WHUC 9-3, at 31-33 (amortization of CIAC).

As noted in Section II.I of this Decision and Order, below, "the commission makes clear that its partial approval of the Stipulation, or any of the methodologies used by the Parties in reaching their global settlement, may not be cited as precedent by any parties in future commission proceedings." Here, for purposes of reaching a global settlement, the Parties note that the Test Year depreciation expense does not account for the amortization of CIAC on the basis that this apparent oversight was not realized "until well after the Parties had reached a settlement agreement establishing a test year revenue requirement as \$5,314,163." The commission, under the circumstances, for purposes of this rate case only, will accept the Parties' stipulated amount for depreciation expense. Cf. In re Young Bros., Ltd., Docket No. 2006-0396, Decision and Order No. 23714, at 44, n.85 (under the stated circumstances, the commission, for that rate case only, accepted the parties' stipulated amount for advertising expense). Nonetheless, in any future WHUC rate case, the commission expects the parties to that rate case to properly account for the amortization of CIAC.

fee (0.5 percent), and are calculated by the Parties based on WHUC's Test Year operating revenues at present and proposed rates.⁵⁹ The commission finds reasonable the Parties' calculations for revenue taxes.

4.

Income Taxes

The Parties' estimates for income taxes at present and proposed rates for the Test Year are as follows:

	<u>Present Rates</u>	<u>Proposed Rates</u>
Water	\$33,085	\$216,811
Sewer	(\$193,172)	\$55,000
Irrigation	<u>\$39,172</u>	<u>\$24,895</u>
Total	(\$120,915)	\$296,706

Income taxes are calculated by the Parties at the federal and State composite income tax rate of 38.910 percent.⁶⁰ The commission finds reasonable the Parties' calculations for income taxes.

E.

Rate Base

The Parties stipulate to the use of an average Test Year rate base in determining WHUC's Test Year revenue requirement, which is consistent with the commission's practice.⁶¹

⁵⁹ See WHUC/CA Joint Exhibit F.

⁶⁰ See WHUC/CA Joint Exhibit F.

⁶¹ See In re Hawaii Elec. Light Co., Inc., Docket No. 99-0207, Decision and Order No. 18365, Section III, at 6-7; filed on February 8, 2001 (commission's discussion regarding its use of an

WHUC's rate base consists of its net plant-in-service (i.e., the plant-in-service minus accumulated depreciation), minus ADIT, the HSCGETC, and unamortized CIAC, plus working cash. In general, the deductions from rate base represent funds provided by sources other than shareholders (i.e., ratepayers), for which shareholders are not entitled to earn a return on, while the addition to rate base represents funds supplied by WHUC's shareholders.

WHUC/CA Joint Exhibit F sets forth the Parties' agreed-upon calculations for WHUC's average Test Year rate base, as follows:

<u>Water System</u>	
<u>Description</u>	<u>Estimates</u> (Average Test Year)
Plant-in-service	\$14,524,767
Accumulated depreciation	<u>\$3,943,892</u>
Net plant-in-service	\$10,580,875
ADIT	\$839,202
HSCGETC	\$367,450
Unamortized CIAC	<u>\$5,762,937</u>
	\$6,969,589
Subtotal	\$3,611,286
Working cash	<u>\$196,359</u>
Total	\$3,807,645

average depreciated rate base); see also In re Young Bros., Ltd., Docket No. 2006-0396, Decision and Order No. 23714, at 46-47 (average test year rate base utilized).

Sewer System

<u>Description</u>	<u>Estimates</u> (Average Test Year)
Plant-in-service	\$9,939,838
Accumulated depreciation	<u>\$2,846,031</u>
Net plant-in-service	\$7,093,807
ADIT	\$101,320
HSCGETC	\$88,437
Unamortized CIAC	<u>\$6,018,319</u>
	\$6,208,076
Subtotal	\$885,732
Working cash	<u>\$80,184</u>
Total	\$965,916

Irrigation System

<u>Description</u>	<u>Estimates</u> (Average Test Year)
Plant-in-service	\$1,107,207
Accumulated depreciation	<u>\$473,185</u>
Net plant-in-service	\$634,023
ADIT	\$183,290
HSCGETC	\$25,494
Unamortized CIAC	<u>-</u>
	\$208,784
Subtotal	\$425,239
Working cash	<u>\$11,970</u>
Total	\$437,209

1.

Net Plant-in-Service

In general, WHUC's plant-in-service, less accumulated depreciation, i.e., its net plant-in-service, reflects its: (1) share of investments in the potable water system jointly owned and operated with WHWC, pursuant to the Water Sharing Agreement; (2) investments in its sewer collection system and

waste treatment facility; and (3) investments in its non-potable irrigation water system.

The net plant-in-service balance represents the major component of WHUC's average Test Year rate base. The Parties' agreement on the net plant-in-service balance, in effect, reflects the net investment in property utilized by WHUC in providing utility services during the Test Year. Consistent with the Parties' Stipulation, WHUC's net plant-in-service balance excludes: (1) 19 percent of the capital expenditures associated with Tanks 300-2 and 3, attributed to excess capacity;⁶² and (2) the capital expenditures for the SPS #2 Replacement Project, on the basis that said project was not completed and used and useful during the Test Year.⁶³ The commission accepts as reasonable the Parties' stipulated amounts of \$10,580,875 (water), \$7,093,807 (sewer), and \$634,023 (irrigation), for WHUC's net plant-in-service balances, as reflected in WHUC/CA Joint Exhibit F.

⁶²See Stipulation, Section III.H.2, Tanks 300-2 & 3, at 21-22; and WHUC/CA Joint Exhibit C.

⁶³As explained by the Parties:

. . . . Due to a delay in obtaining the necessary pumps, WHUC cannot confirm a completion date for SPS #2 Replacement. Accordingly, the Parties agreed that all capital expenditures associated with SPS #2 Replacement will be excluded from WHUC's test year rate base in this rate case, without prejudice to WHUC's right to seek to include such expenditures in its rate base in its next rate proceeding.

Stipulation, Section III.I.1, SPS #2 Replacement, at 24; see also WHUC's response to CA-SIR-11 (WHUC no longer believes that the SPS #2 Replacement Project will be completed within the Test Year).

Accumulated Deferred Income Taxes

As noted by the commission in In re Young Bros., Ltd.,

Docket No. 2006-0396:

ADIT represents the difference between the amount of income tax expense reported for book (i.e., ratemaking) and for tax purposes. In general, a regulated entity calculates and reports book depreciation expenses on a straight-line basis (i.e., straight-line depreciation), but for tax purposes, the regulated entity may write-off the same asset on an accelerated basis, i.e., accelerated depreciation. The difference in tax liabilities calculated for book and tax purposes, respectively, generates deferred income taxes. Thus, the regulated entity must pass onto its ratepayers the tax benefits received as a result of the accelerated tax depreciation practices. For ratemaking purposes, the ADIT is reflected as a reduction to rate base.

In re Young Bros., Ltd., Docket No. 2006-0396, Decision and Order No. 23714, at 50.

The Parties agreed to utilize the partial normalization method recommended by the Consumer Advocate to calculate WHUC's Test Year ADIT. As noted by the Parties, the partial normalization method "analyzes the difference between the accumulated depreciation on a book basis versus the accumulated depreciation on a tax basis[,]" and that "the Consumer Advocate contends that [this] method relies upon the rate-making practice usually employed for small utility companies."⁶⁴

The commission approves as reasonable the Parties' stipulated amounts of \$839,202 (water), \$101,320 (sewer), and \$183,290 (irrigation), for ADIT, as reflected in WHUC/CA Joint Exhibit F.

⁶⁴Stipulation, at 29.

3.

Hawaii State Capital Goods Excise Tax Credit

As described by the commission in In re Young Bros., Ltd., Docket No. 2006-0396:

The HSCGETC is the tax credit authorized for purchases related to the acquisition or construction of capital goods in the State. "Similar to ADIT, the tax benefits associated with HSCGETC must be returned to a regulated utility company's customers. Thus, similar to ADIT, the accumulated balance of HSCGETC is reflected as an offset to rate base."

In re Young Bros., Ltd., Docket No. 2006-0396, Decision and Order No. 23714, at 52 (footnotes, text, and citation therein omitted).

The commission finds reasonable the Parties' stipulated average unamortized HSCGETC balances of \$367,450 (water), \$88,437 (sewer), and \$25,494 (irrigation), as set forth in WHUC/CA Joint Exhibits D and F.

4.

Contributions-in-Aid-of-Construction

In general, for WHUC:

Contributions in aid of construction include cash or property received from customers or developers. Property received other than cash is valued at fair market value on the date received.

Amortization of contributions in aid of construction is calculated using the same method and useful lives as the corresponding utility plant received or acquired.

Exhibit WHUC 9-3, at 32; see also Exhibit No. WHUC 9-2, at 9 (CIAC).

The Parties' stipulated estimates for WHUC's unamortized CIAC balances for its water and sewer operations,

respectively, are set forth in WHUC/CA Joint Exhibit F. There is no CIAC attributed to WHUC's non-potable irrigation operations.⁶⁵ The Parties' stipulated amounts result from their review and corrections to each other's CIAC schedules, which "were resolved to each party's satisfaction."⁶⁶

The commission finds reasonable the Parties' stipulated estimates of \$5,762,937 (water) and \$6,018,319 (sewer) for WHUC's unamortized CIAC balances.

5.

Working Cash

"Working cash is the amount of money provided by investors, over and above the investment in plant and other specifically identified rate base items, in order for WHUC to meet current obligations incurred in providing service pending receipt of revenues from those services. WHUC is entitled to receive a return on such advances."⁶⁷

In In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 96-0366, WHUC's most recent general rate case, the commission approved the use of the 1/12 formula approach in calculating WHUC's test year working cash, described as follows:

⁶⁵See Exhibit No. WHUC 9-2, at 9-11 (WHUC has not received any CIAC for the irrigation utility or the general plant); and Exhibit WHUC 9-3, at 33.

⁶⁶Stipulation, at 28.

⁶⁷In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 96-0366, Decision and Order No. 16372, at 12.

WHUC and the Consumer Advocate agree on the calculation of working cash. The parties calculated working cash by using the 1/12 formula approach, instead of a detailed lead/lag study. The use of a 1/12 formula provides only a general estimation of a utility's working capital requirements. However, because of the cost and time involved in performing a lead/lag study for "smaller" utilities, we have allowed this method to be used in past decisions.

The parties calculated its working cash amount by applying the 1/12 formula approach to all operation and maintenance expenses, less uncollectibles, depreciation, income taxes, and taxes other than income taxes. The factor of 1/12 equates to a 30-day time lag between the rendering of the service and payment by the customer. This method is reasonable.

In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co.,
Docket No. 96-0366, Decision and Order No. 16372, at 12 (emphasis added).

While working cash is not specifically discussed by the Parties in the text of their Stipulation, upon review, it is apparent that the Parties' calculation of WHUC's working cash is based on the 1/12 formula approach previously found to be reasonable by the commission in WHUC's most recent rate case. The commission, under the circumstances, finds reasonable the Parties' stipulated amounts of \$196,359 (water), \$80,184 (sewer), and \$11,970 (irrigation) for working cash, as reflected in WHUC/CA Joint Exhibit F.

F.

Rate of Return

As discussed by the Hawaii Supreme Court ("Court"), in In re Hawaii Elec. Light Co., Inc., 60 Haw. 625, 594 P.2d 612 (1979):

A fair return is the percentage rate of earnings on the rate base allowed a utility after making provision for operating expenses, depreciation, taxes and other direct operating costs. Out of such allowance the utility must pay interest and other fixed dividends on preferred and common stock. In determining a rate of return, the Commission must protect the interests of a utility's investors so as to induce them to provide the funds needed to purchase plant and equipment, and protect the interests of the utility's consumers so that they pay no more than is reasonable.

To calculate the rate of return, the costs of each component of capital - debt, preferred equity and common equity - are weighted according to the ratio each bears to the total capital structure of the company and the resultant figures are added together to yield a sum which is the rate of return.

The proper return to be accorded common equity is the most difficult and least exact calculation in the whole rate of return procedure since there is no contractual cost as in the case of debt or preferred stock[:]

Equity capital does not always pay dividends; all profits after fixed charges accrue to it and it must withstand all losses. The cost of such capital cannot be read or computed directly from the company's books. Its determination involves a judgment of what return on equity is necessary to enable the utility to attract enough equity capital to satisfy its service obligations.

.

Questions concerning a fair rate of return are particularly vexing as the reasonableness of rates is not determined by a fixed formula but is a fact question requiring the exercise of sound

discretion by the Commission. It is often recognized that the ratemaking function involves the making of "pragmatic" adjustments and there is no single correct rate of return but that there is a "zone of reasonableness" within which the commission may exercise its judgment.

In re Hawaii Elec. Light Co., Inc., 60 Haw. at 632-33 and 636, 594 P.2d at 618-19 and 620 (citations omitted) (emphasis added).

The Parties agree that a rate of return of 8.94 percent is just and reasonable, based on the following capital structure and cost rates:

<u>Capital Component</u>	<u>Weight</u>	<u>Cost Rate</u>	<u>Weighted Cost</u>
Notes payable	48.4%	7.27%	3.52%
Common equity	<u>51.6%</u>	10.5%	<u>5.42%</u>
Total	100%		8.94%

See WHUC/CA Joint Exhibit F.

In support of their position, the Parties explain:

In its Application, WHUC used an 11.8 percent overall rate of return to determine test year revenue requirements. See WHUC Exhibit 6. The Consumer Advocate, in its Direct Testimonies, recommended that WHUC's rate of return should be 8.68 percent, the midpoint in a range of 8.42 percent and 8.94 percent. See CA-T-3, p. 34. In their settlement discussions, the Parties agreed that there can be no accurate measure of WHUC's capital costs, beta, or size premium inasmuch as WHUC is a small, privately held utility and the only measure of these items is by comparison to larger, public traded companies. Indeed, the difficulty of assessing WHUC's cost of equity is clearly evidenced by the fact that WHUC's expert proffered a rate of return of 11.8 percent and the Consumer Advocate's expert proffered a rate of return of 8.68 percent, a difference of 3.12 percent. Given the inexact science of conducting a cost of equity analysis on a small, privately held company such as WHUC, the Parties agree to settle this issue by using the highest rate of return within the range provided by the Consumer Advocate. That is, WHUC's rate of return would be 8.94 percent. Accordingly, the

Parties agreed that a rate of return of 8.94 percent is just and reasonable under the circumstances. WHUC/CA Joint Exhibit F, p. 2.

Stipulation, at 32-33 (emphasis added).

Here, the stipulated rate of return is 1.06 percent (or 106 basis points) less than WHUC's present authorized rate of return of 10 percent. On balance, the commission finds that the stipulated rate of return is within the range of reasonableness recognized by the Court in In re Hawaii Elec. Light Co., Inc. The commission approves as fair the Parties' stipulated rate of return of 8.94 percent.

G.

Rate Design

Excluding the proposed step increase in WHUC's water rates associated with the completion and use of Tank 1200N-2 outside of the Test Year, the Parties stipulate to the following changes in WHUC's rates:

Minimum Monthly Water Service Charge

<u>Meter Size</u>	<u>Present Rates</u>	<u>Approved Rates</u>	<u>% Increase</u>
5/8" & 3/4"	\$7.20	\$8.39	16.5%
1"	\$13.80	\$16.08	16.5%
1-1/2"	\$24.20	\$28.20	16.5%
2"	\$33.00	\$38.46	16.5%
3"	\$66.00	\$76.92	16.5%
4"	\$110.00	\$128.20	16.5%
6"	\$220.00	\$256.41	16.6%
8"	\$396.00	\$461.53	16.5%

Monthly Water Quantity Charge

<u>Present Charge</u>	<u>Approved Charge</u>	<u>% Increase</u>
\$2.68 per TG	\$3.12 per TG ⁶⁸	16.4%

Minimum Monthly Private Fire Service Charge

<u>Meter Size</u>	<u>Present Rates</u>	<u>Approved Rates</u>	<u>% Increase</u>
4"	\$110	\$128.20	16.5%
6"	\$220	\$256.41	16.6%
8"	\$396	\$461.53	16.5%

Minimum Monthly Sewer Service Charge**

<u>Classification</u>	<u>Present Rates</u>	<u>Approved Rates</u> (First Increase)	<u>% Increase</u>	<u>Approved Rates</u> (Second Increase)	<u>% Increase</u>
Residential - Condo/Hotel	\$4.25 per month per living unit	\$6 per month per living unit	41%	\$7.82 per month per living unit	30.3%
Commercial	\$10 per connection per month	\$14.20 per connection per month	42%	\$18.40 per month per living unit	29.6%

Monthly Sewer Consumption Charge**

(For Residential - Condo/Hotel and Commercial)

<u>Present Charge</u>	<u>Approved Charge</u> (First Increase)	<u>% Increase</u>	<u>Approved Charge</u> (Second Increase)	<u>% Increase</u>
\$1 per TG/ metered potable water	\$1.42 per TG/ meter potable water	42%	\$1.81 per TG/ metered potable water	27.5%

**The Parties agree to phase-in the increase in WHUC's sewer rates, "with the first increase effective with the Commission's order, and six months thereafter, the rate will change to the rates proposed under the second increase."⁶⁹

⁶⁸The Stipulation inadvertently refers to a rate of \$3.08 per TG, instead of the Parties' agreed-upon amount of \$3.12 per TG. See Stipulation, at 35 (\$3.08 per TG); Joint Statement, at 20 (\$3.12 per TG); Interim Decision and Order No. 23925, at 14 (\$3.12 per TG); and WHUC's letter, dated December 28, 2007, transmitting its updated tariff sheets (\$3.12 per TG, effective from December 31, 2007).

⁶⁹Stipulation, at 35; see also Joint Statement, at 18 and 21 n.5 (WHUC agreed to phase-in the sewer rate increase with

Irrigation Service Charge

"The monthly volumetric rates, presently \$.30 [per TG, will] change to \$.26 [per TG]." ⁷⁰

The Parties stipulate to an increase of approximately 27 percent in revenues over present rates, on a consolidated operations basis (water, sewer, and irrigation), with 16.5 percent of the increase allocated to WHUC's water operations, and 84 percent of the increase allocated to WHUC's sewer operations.⁷¹ In order to mitigate the effects of the increase in wastewater rates to WHUC's ratepayers, the Parties agree that the first increase will be limited to approximately 42 percent, "effective with the Commission's order, and six months thereafter, the rates will change to the rates proposed under the second increase."⁷²

To a large extent, "the disparity in the percentage increases between WHUC's water and sewer operations appears attributed to the increases in costs and expenses for operating WHUC's sewer collection system and wastewater treatment facility on a stand-alone basis, in relation to the increases in costs and expenses associated with WHWC and WHUC's joint ownership and

50 percent of the increase effective with the commission's order in this proceeding, and the remaining 50 percent of the increase effective six months after the commission's order).

⁷⁰Stipulation, at 36.

⁷¹In its completed Application, WHUC initially proposed to increase its water rates by 52 percent, and its sewer rates by 132 percent.

⁷²Stipulation, at 35.

operation of their potable water system."⁷³ Moreover, given the magnitude of the increase in sewer rates approved by the commission herein, WHUC agrees to phase-in the increase in its sewer rates, with the second increase taking effect six months following the issuance of this Decision and Order.

With the exception of the proposed step increase in WHUC's water rates associated with the completion and use of Tank 1200N-2 outside of the Test Year, the commission approves as reasonable the Parties' stipulated rate design to implement the changes in WHUC's water, sewer, and irrigation rates. In essence, the stipulated rate design reflects the current interim rate design approved by the commission in Interim Decision and Order No. 23925, subject to the additional approval and inclusion of the second increase in WHUC's sewer rates, to take effect six months following the issuance of this Decision and Order.

H.

Power Cost Adjustment Factor

The purpose of WHUC's power cost adjustment clause is to automatically pass through to WHUC's ratepayers, changes in the cost of electricity purchased and utilized by WHUC in pumping water. As noted by the Parties:

The [power cost adjustment clause] is designed to allow the recovery of the approximate actual electricity costs incurred by [WHUC]. The power cost adjustment clause affects revenue levels on a prospective basis whereby the [PCAF] calculates the difference between the actual cost of electricity to pump 1,000 gallons of water in a

⁷³Interim Decision and Order No. 23925, at 15-16.

given billing period and the cost to pump 1,000 gallons at the agreed upon test year electricity cost of \$0.2542 per kilowatt hour. The resulting power cost adjustment factor is then added or deducted from the volumetric rate to determine the [power cost adjustment clause] revenues for a given period.

.
. the Parties have agreed that [WHUC] will continue to use a power cost adjustment factor as requested in [WHUC's] Application Exhibit 5 and incorporated in the revised rate sheets filed on December 28, 2007. To the extent that the cost of electricity and power increases and/or decreases from the test year base for [the] kilowatt hour cost of electricity, [WHUC] will increase or decrease the volumetric water rate applied by a factor calculated by the [PCAF]. The Parties therefore agreed to revise [WHUC's PCAF] as follows:

PCAF = (actual cost per kwh - \$0.2542/kwh) x
5.8 kwh/thousand gallons) x (1.06385)

Accordingly, the Parties agreed to:
(1) reflect the power cost adjustment factor of zero for the test year; and (2) revise the [PCAF].

Parties' letter, dated December 31, 2007, at 1-2 (emphasis added); see also WHUC's updated tariff sheets, effective December 31, 2007.

The Parties' revised PCAF reflects the Test Year base for kilowatt hour cost of electricity (\$0.2542/kWh) and the efficiency factor (5.8 kWh/TG). The commission approves as reasonable the Parties' revised PCAF.

I.

Approval in Part, Denial in Part

This rate filing represents WHUC's first application for a general increase in its rates since the filing of its previous application in October 1996, which utilized the

1997 calendar test year. Since its last general rate increase, WHUC's normalized level of operating and maintenance expenses have increased, and WHUC has completed certain capital improvement projects. Consistent thereto, the Parties state that their Stipulation is "based, in part, on the substantial development within WHUC's service territory over the past nine years and the dramatic increase in the demand for WHUC's water and sewer services."⁷⁴

WHUC initially sought rate increases of 52 percent over revenues at present rates for its water service, and 132 percent over revenues at present rates for its sewer service, based on a proposed overall rate of return of 11.8 percent. Upon the completion of the discovery process, including the Parties' review and analysis of their respective positions, the Parties ultimately reached a global settlement on all issues. As a result, the Parties agree to: (1) an increase of approximately 27 percent in revenues over present rates, on a consolidated operations basis (water, sewer, and irrigation), with 16.5 percent of the increase allocated to WHUC's water operations, and 84 percent of the increase allocated to WHUC's sewer operations; and (2) the two-part phase-in of WHUC's sewer rates.

On balance, the Parties' stipulated increase in its operating revenues of \$1,146,512, or approximately 27 percent over revenues at present rates, based on a rate of return of 8.94%, provides WHUC with a reasonable opportunity to earn its

⁷⁴Stipulation, at 33.

Test Year revenue requirement of \$5,314,163 (consolidated operations basis).

Based on the reasons set forth in this Decision and Order, the commission approves in part, and denies in part, the Parties' Stipulation. That said, the commission makes clear that its partial approval of the Stipulation, or any of the methodologies used by the Parties in reaching their global settlement, may not be cited as precedent by any parties in future commission proceedings. Conversely, the denial of the other portions of the Stipulation: (1) represents reasoning based on sound ratemaking principles; and (2) may be referred to or cited to in future commission proceedings.

III.

Summary of Findings and Conclusions

Based on the foregoing, the commission finds and concludes:

1. The operating revenues and expenses for the Test Year, as set forth in the attached exhibits, are reasonable, taken as a whole. Nonetheless, in any future WHUC rate case, the commission expects the parties to that rate case to properly account for the amortization of CIAC.

2. The use of an average Test Year rate base is reasonable.

3. The Test Year average depreciated rate base of \$5,210,770 is reasonable (consolidated operations basis).

4. The stipulated rate of return of 8.94 percent is fair.

5. WHUC is entitled to an increase in revenues of \$1,146,512, or approximately 27 percent over revenues at present rates, based on a total revenue requirement of \$5,314,163 for the Test Year (consolidated operations basis), and a rate of return of 8.94 percent.

6. The inclusion of Tank 1200N-2 in WHUC's plant-in-service for the Test Year: (A) violates the test year concept and HRS § 269-16(b); and (B) is neither just nor reasonable. Thus, the Parties' proposed step increase in WHUC's water rates associated with the completion and use of Tank 1200N-2 outside of the Test Year, is denied.

7. The stipulated rate design, with the exception of Paragraph 6, above, is reasonable. Thus, WHUC is entitled to: (A) an across-the-board increase in its water rates of 16.5 percent; (B) an across-the-board increase in its sewer rates of 42 percent, under the first phase of a two-step phase-in; followed by an additional increase in WHUC's sewer rates, ranging from approximately 27 percent to 30 percent, no later than six months from the date of this Decision and Order; and (C) a decrease in its non-potable irrigation service charge of 13.3 percent.

8. The Parties' agreed-upon revisions to the PCAF are reasonable.

9. Interim Decision and Order No. 23925 provides that "WHUC 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."⁷⁵ Based on the rulings made by the commission in this Decision and Order, no refund is required under HRS § 269-16(d).

IV.

Orders

THE COMMISSION ORDERS:

1. The Parties' Stipulation, filed on December 11, 2007, is approved in part, and denied in part, as explained in this Decision and Order. In particular: (A) the inclusion of Tank 1200N-2 in WHUC's plant-in-service for the Test Year is disallowed; and (B) the proposed step increase in WHUC's water rates associated with the completion and use of Tank 1200N-2 outside of the Test Year, is denied.

2. WHUC may increase its rates to such levels as will produce, in the aggregate, \$1,146,512 in additional revenues for the Test Year (approximately 27 percent over revenues at present rates), on a consolidated operations basis.

3. The changes in WHUC's rates (water, sewer, and irrigation) that were initially approved by the commission in Interim Decision and Order No. 23925, will remain in effect, provided that WHUC shall file its revised rate schedules with the commission by March 27, 2008, with the applicable issued and

⁷⁵Interim Decision and Order No. 23925, Section II.C, Refund, at 16; see also id. at 18 and 19, Ordering ¶ No. 3, at 19.

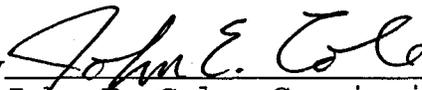
effective dates, and serve copies upon the Consumer Advocate. The revised rate schedules shall clearly identify an effective date for the second increase in WHUC's sewer rates, which will take effect no earlier than six months following the issuance of this Decision and Order.

4. The failure to comply with Ordering Paragraph No. 3, above, may constitute cause to void this Decision and Order, and may result in further regulatory action as authorized by State law.

DONE at Honolulu, Hawaii MAR 10 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:



Michael Azama
Commission Counsel

2006-0409.cp

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
CONSOLIDATED REVENUE REQUIREMENTS
TEST YEAR ENDED DECEMBER 31, 2007

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Approved Rates</u>
Total Estimated Operating Revenues	\$ 4,167,650	\$ 1,146,513	\$ 5,314,163
Less:			
Total Operating Expenses	3,462,150	-	3,462,150
Total Depreciation Expenses	750,154	-	750,154
Total TOTIT	266,104	73,205	339,309
Total Expenses	<u>4,478,408</u>	<u>73,205</u>	<u>4,551,613</u>
Total Taxable Income from Operations	(310,758)	1,073,308	762,550
Total Income Taxes	(120,916)	417,624	296,708
Total Net Oper. Income After Tax	<u>\$ (189,842)</u>	<u>\$ 655,684</u>	<u>\$ 465,842</u>
Total Rate Base	\$ 5,210,770		\$ 5,210,770
Total Return on Rate Base	-3.64%		8.94%

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
REVENUE REQUIREMENTS - WATER
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Additional Amount	Approved Rates
REVENUES			
Water Fees Monthly Meter	\$ 34,457	\$ 5,701	\$ 40,158
Water Fees Monthly Usage	2,972,372	491,872	3,464,244
Water Fees Private Fire	41,184	6,816	48,000
Total Operating Revenues	<u>3,048,013</u>	<u>504,389</u>	<u>3,552,402</u>
OPERATING & MAINT. EXPENSES			
601.1 Pumping - Oper Labor	26,509		26,509
601.2 Pumping - Maint. Equip.	3,239		3,239
601.3 Water Treat. Labor	11,875		11,875
601.4 Water Trtat. - Maint. Labor	3,229		3,229
601.5 Trans & Dist. - Oper & Mains	11,754		11,754
601.6 Trans & Dist. Maint. Mains	19,359		19,359
615.1 Pumping - Oper Fuel & Power	1,736,666		1,736,666
618.3 Water Treat Chemicals	7,992		7,992
620.1 Pumping - Operat. Exp.	4,776		4,776
620.2 Pumping - Maint. of Equip.	6,234		6,234
620.3 Water Treatment - Exp.	1,128		1,128
620.4 Water Treat. - Maint. Exp.	3,720		3,720
620.5 T & D Operations Exp.	2,028		2,028
620.6 T & D Mains Exp.	11,262		11,262
620.6.1 T & D - Maint. Mains - Amort.	-		-
635.1 Pumping - Oper - Contract	23,786		23,786
635.2 Pumping - Maint - Contr. Svs.	-		-
635.3 Water Treat. - Contr. Svs.	1,440		1,440
635.5 Dist. - O & M Contract Svs.	3,504		3,504
635.6 Trans - O & M Contr. Svs.	33,204		33,204
642.1 Equipment Leases	-		-
General & Admin	444,600		444,600
Total O & M Expenses	<u>2,356,305</u>	<u>-</u>	<u>2,356,305</u>
Depreciation	412,062		412,062
TOTIT	194,616	32,205	226,821
Income Taxes	33,085	183,727	216,812
Net Operating Expense	<u>639,763</u>	<u>215,932</u>	<u>855,695</u>
Net Operating Income (Loss)	<u>\$ 51,945</u>	<u>\$ 288,457</u>	<u>\$ 340,402</u>
Average Rate Base	<u>\$ 3,807,645</u>		<u>\$ 3,807,645</u>
Return on Rate Base	<u>1.36%</u>		<u>8.94%</u>

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
TAXES OTHER THAN INCOME TAXES - WATER
TEST YEAR ENDED DECEMBER 31, 2007

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Approved Rates</u>
Total Operating Revenues		\$ 3,048,013	\$ 504,389	\$ 3,552,402
Public Company Service Tax	5.885%	179,376	29,683	209,059
Public Utility Fee	0.500%	15,240	2,522	17,762
Total Revenue Taxes	6.385%	\$ 194,616	\$ 32,205	\$ 226,821

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
INCOME TAX EXPENSE - WATER
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Approved Rates
REVENUES		
Water Fees Monthly Meter	\$ 34,457	\$ 40,158
Water Fees Monthly Usage	2,972,372	3,464,244
Water Fees Private Fire	41,184	48,000
Total Operating Revenues	3,048,013	3,552,402
OPERATING & MAINT. EXPENSES		
Pumping - Oper Labor	26,509	26,509
Pumping - Maint. Equip.	3,239	3,239
Water Treat. Labor	11,875	11,875
Water Treat. - Maint. Labor	3,229	3,229
Trans & Dist. - Oper & Mains	11,754	11,754
Trans & Dist. Maint. Mains	19,359	19,359
Pumping - Oper Fuel & Power	1,736,666	1,736,666
Water Treat Chemicals	7,992	7,992
Pumping - Operat. Exp.	4,776	4,776
Pumping - Maint. of Equip.	6,234	6,234
Water Treatment - Exp.	1,128	1,128
Water Treat. - Maint. Exp.	3,720	3,720
T & D Operations Exp.	2,028	2,028
T & D Mains Exp.	11,262	11,262
T & D - Maint. Mains - Amort.	-	-
Pumping - Oper - Contract	23,786	23,786
Pumping - Maint - Contr. Svs.	-	-
Water Treat. - Contr. Svs.	1,440	1,440
Dist. - O & M Contract Svs.	3,504	3,504
Trans - O & M Contr. Svs.	33,204	33,204
Equipment Leases	-	-
General & Admin	444,600	444,600
Depreciation Expense	412,062	412,062
TOTIT	194,616	226,821
Total O & M Expenses	2,962,983	2,995,188
Taxable Income	85,030	557,214
Income Tax Provision		
Effective tax rate of	38.9100%	216,812
Income Tax Expense	\$ 33,085	\$ 216,812

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
AVERAGE RATE BASE - WATER
TEST YEAR ENDED DECEMBER 31, 2007

Description	<u>At 12/31/2006</u>	<u>At 12/31/2007</u>	<u>Average</u>
Plant in Service	\$ 13,245,689	\$ 15,803,846	
Accum. Depreciation	3,737,861	4,149,923	
Net-Plant-in-Service	<u>9,507,828</u>	<u>11,653,923</u>	<u>\$ 10,580,876</u>
Deduct:			
HCGETC	323,933	410,968	
Unamortized CIAC	5,437,802	6,088,072	
Accumulated Deferred Income Tax	832,896	845,508	
Subtotal	<u>6,594,631</u>	<u>7,344,548</u>	<u>6,969,590</u>
Subtotal	<u>2,913,197</u>	<u>4,309,375</u>	<u>3,611,286</u>
Average			3,611,286
Working Cash at Present Rates			<u>196,359</u>
Rate Base at Present and Proposed Rates			<u><u>\$ 3,807,645</u></u>

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
WORKING CASH REQUIREMENT - WATER
TEST YEAR ENDED DECEMBER 31, 2007

Operating Expenses			
601.1	Pumping - Oper Labor	\$	26,509
601.2	Pumping - Maint. Equip.		3,239
601.3	Water Treat. Labor		11,875
601.4	Water Trat. - Maint. Labor		3,229
601.5	Trans & Dist. - Oper & Mains		11,754
601.6	Trans & Dist. Maint. Mains		19,359
615.1	Pumping - Oper Fuel & Power		1,736,666
618.3	Water Treat Chemicals		7,992
620.1	Pumping - Operat. Exp.		4,776
620.2	Pumping - Maint. of Equip.		6,234
620.3	Water Treatment - Exp.		1,128
620.4	Water Treat. - Maint. Exp.		3,720
620.5	T & D Operations Exp.		2,028
620.6	T & D Mains Exp.		11,262
620.6.1	T & D - Maint. Mains - Amort.		-
635.1	Pumping - Oper - Contract		23,786
635.2	Pumping - Maint - Contr. Svs.		-
635.3	Water Treat. - Contr. Svs.		1,440
635.5	Dist. - O & M Contract Svs.		3,504
635.6	Trans - O & M Contr. Svs.		33,204
642.1	Equipment Leases		-
	General & Admin		444,600
	Total O & M	\$	2,356,305
	Number of months in a year		12
	Working Cash	\$	<u>196,359</u>

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
REVENUE REQUIREMENTS - WASTE
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Additional Amount	Approved Rates
REVENUES			
Sewer Fees Monthly Fixed	\$ 143,859	\$ 120,843	\$ 264,702
Sewer Fees Monthly Usage	689,018	560,475	1,249,493
Total Operating Revenues	832,877	681,318	1,514,195
OPERATING & MAINT. EXPENSES			
701.3 Pumping - Oper Exp.	26,415		26,415
701.4 Pumping - Maint. Equip.	19,475		19,475
701.5 Treat & Disp - Oper Labor	224,772		224,772
701.6 T & D Maint of T & D Pint - Labor	37,057		37,057
715.3 Pumping - Oper Fuel & Power	66,948		66,948
715.5 Treat & Disp - Fuel/Power	210,384		210,384
718.5 Treat & Disp. - Other Chemicals	33,300		33,300
720.3 Pumping - Other Operating Exp.	5,544		5,544
720.4 Pumping - Main of Pump Equip.	13,572		13,572
720.5 Treat & Disp - Oper Exp.	47,688		47,688
720.6 T & D Maint of T & D Plant	24,012		24,012
720.5.2 Treat & Disp. - Oper. - Pur Water	2,220		2,220
735.3 Pumping - Oper - Contract Svs.	3,996		3,996
735.4 Pumping - Maint - Contr. Svs.	10,404		10,404
735.5 Treat & Disp. - Contr. Svs.	8,496		8,496
735.6 Treat & Disp. - Maint. Contr.	27,264		27,264
742.3 Equipment Leases	21,072		21,072
742.5 Rental of Equipment	-		-
General & Admin	179,588		179,588
Total O & M Expenses	962,207	-	962,207
Depreciation	313,953	-	313,953
TOTIT	53,179	43,502	96,681
Income Taxes	(193,173)	248,174	55,001
Net Operating Expense	173,959	291,676	465,635
Net Operating Income (Loss)	(303,289)	389,642	86,353
Average Rate Base	\$ 965,916		\$ 965,916
Return on Rate Base	-31.40%		8.94%

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
TAXES OTHER THAN INCOME TAXES - WASTE
TEST YEAR ENDED DECEMBER 31, 2007

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Approved Rates</u>
Total Operating Revenues		\$ 832,877	\$ 681,318	\$ 1,514,195
Public Company Service Tax	5.885%	49,015	40,096	89,110
Public Utility Fee	0.500%	4,164	3,407	7,571
Total Revenue Taxes	6.385%	\$ 53,179	\$ 43,502	\$ 96,681

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
INCOME TAX EXPENSE - WASTE
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Approved Rates
REVENUES		
Sewer Fees Monthly Fixed	\$ 143,859	\$ 264,702
Sewer Fees Monthly Usage	689,018	1,249,493
Total Operating Revenues	832,877	1,514,195
 OPERATING & MAINT. EXPENSES		
Pumping - Oper Exp.	26,415	26,415
Pumping - Maint. Equip.	19,475	19,475
Treat & Disp - Oper Labor	224,772	224,772
T & D Maint of T & D Pint - Labor	37,057	37,057
Pumping - Oper Fuel & Power	66,948	66,948
Treat & Disp - Fuel/Power	210,384	210,384
Treat & Disp. - Other Chemicals	33,300	33,300
Pumping - Other Operating Exp.	5,544	5,544
Pumping - Main of Pump Equip.	13,572	13,572
Treat & Disp - Oper Exp.	47,688	47,688
T & D Maint of T & D Plant	24,012	24,012
Treat & Disp. - Oper. - Pur Water	2,220	2,220
Pumping - Oper - Contract Svs.	3,996	3,996
Pumping - Maint - Contr. Svs.	10,404	10,404
Treat & Disp. - Contr. Svs.	8,496	8,496
Treat & Disp. - Maint. Contr.	27,264	27,264
Equipment Leases	21,072	21,072
Rental of Equipment	-	-
General & Admin	179,588	179,588
Depreciation Expense	313,953	313,953
TOTIT	53,179	96,681
Total Operating & Maint. Exp.	1,329,339	1,372,841
 Taxable Income	(496,462)	141,354
 Income Tax Provision		
Effective tax rate of	38.9100%	(193,173)
	(193,173)	55,001
 Income Tax Expense	\$ (193,173)	\$ 55,001

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
AVERAGE RATE BASE - WASTE
TEST YEAR ENDED DECEMBER 31, 2007

	At 12/31/2006	At 12/31/2007	Average
Description			
Plant in Service	\$ 9,939,838	\$ 9,939,838	
Accum. Depreciation	2,689,055	3,003,007	
Net-Plant-in-Service	7,250,783	6,936,831	7,093,807
Deduct:			
HCGETC	92,039	84,835	
CIAC	5,836,831	6,199,806	
Accumulated Deferred Income Tax	107,429	95,210	
Subtotal	6,036,299	6,379,851	6,208,075
 Subtotal	 1,214,484	 556,980	
Average			885,732
Working Cash at Present Rates			80,184
Rate Base at Present and Proposed Rates			\$ 965,916

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
WORKING CASH REQUIREMENT - WASTE
TEST YEAR ENDED DECEMBER 31, 2007

Operating Expenses		
701.3	Pumping - Oper Exp.	\$ 26,415
701.4	Pumping - Maint. Equip.	19,475
701.5	Treat & Disp - Oper Labor	224,772
701.6	T & D Maint of T & D Pint - Labor	37,057
715.3	Pumping - Oper Fuel & Power	66,948
715.5	Treat & Disp - Fuel/Power	210,384
718.5	Treat & Disp. - Other Chemicals	33,300
720.3	Pumping - Other Operating Exp.	5,544
720.4	Pumping - Main of Pump Equip.	13,572
720.5	Treat & Disp - Oper Exp.	47,688
720.6	T & D Maint of T & D Plant	24,012
720.5.2	Treat & Disp. - Oper. - Pur Water	2,220
735.3	Pumping - Oper - Contract Svs.	3,996
735.4	Pumping - Maint - Contr. Svs.	10,404
735.5	Treat & Disp. - Contr. Svs.	8,496
735.6	Treat & Disp. - Maint. Contr.	27,264
742.3	Equipment Leases	21,072
742.5	Rental of Equipment	-
	General & Admin	179,588
	Total O & M	<u>962,207</u>
	Number of months in a year	<u>12</u>
	Working Cash	<u><u>\$ 80,184</u></u>

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
REVENUE REQUIREMENTS - IRRIGATION
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Additional Amount	Approved Rates
REVENUES			
Irrigation Revenues	\$ 286,760	(39,194)	\$ 247,566
Total Operating Revenues	<u>\$ 286,760</u>	<u>\$ (39,194)</u>	<u>\$ 247,566</u>
OPERATING & MAINT. EXPENSES			
601.1 Pumping - Oper Labor	6,011		6,011
601.2 Pumping - Maint. Supv & Eng.	2,851		2,851
601.3 Water Treat. Labor	5,547		5,547
615.1 Pumping - Purchased Power	92,208		92,208
620.1 Pumping - Oper. Exp.	1,044		1,044
620.2 Pumping - Maint Supv. & Eng.	1,428		1,428
620.3 Water Treatment - Exp.	708		708
620.6 Irrigation T&D Materials	-		-
635.2 Pumping - Maint. Contr. Svs.	7,032		7,032
642.5 Rental Equipment	-		-
General & Admin	26,809		26,809
Total O & M Expenses	<u>\$ 143,638</u>	<u>-</u>	<u>\$ 143,638</u>
Depreciation	\$ 24,139	\$ -	\$ 24,139
TOTIT	18,310	\$ (2,503)	15,807
Income Taxes	39,172	\$ (14,277)	24,895
Net Operating Expense	<u>\$ 81,621</u>	<u>\$ (16,779)</u>	<u>\$ 64,841</u>
Net Operating Income (Loss)	<u>\$ 61,501</u>	<u>\$ (22,415)</u>	<u>\$ 39,087</u>
Average Rate Base	<u>\$ 437,209</u>		<u>\$ 437,209</u>
Return on Rate Base	<u>14.07%</u>		<u>8.94%</u>

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
TAXES OTHER THAN INCOME TAXES - IRRIGATION
TEST YEAR ENDED DECEMBER 31, 2007

	<u>Tax Rates</u>	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Approved Rates</u>
Total Operating Revenues		\$ 286,760	\$ (39,194)	\$ 247,566
Public Company Service Tax	5.885%	16,876	(2,307)	14,569
Public Utility Fee	0.500%	1,434	(196)	1,238
Total Revenue Taxes	6.385%	\$ 18,310	\$ (2,503)	\$ 15,807

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
INCOME TAX EXPENSE - IRRIGATION
TEST YEAR ENDED DECEMBER 31, 2007

	Present Rates	Approved Rates
REVENUES		
Irrigation Revenues	\$ 286,760	\$ 247,566
Total Operating Revenues	286,760	247,566
OPERATING & MAINT. EXPENSES		
Pumping - Oper Labor	6,011	6,011
Pumping - Maint. Supv & Eng.	2,851	2,851
Water Treat. Labor	5,547	5,547
Pumping - Purchased Power	92,208	92,208
Pumping - Oper. Exp.	1,044	1,044
Pumping - Maint Supv. & Eng.	1,428	1,428
Water Treatment - Exp.	708	708
Irrigation T&D Materials	-	-
Pumping - Maint. Contr. Svs.	7,032	7,032
Rental Equipment	-	-
General & Admin	26,809	26,809
Depreciation Expense	24,139	24,139
TOTIT	18,310	15,807
Total O & M Expenses	186,087	183,584
Taxable Income	100,673	63,982
Income Tax Provision		
Effective tax rate of	38.9100%	39,172
Income Tax Expense	\$ 39,172	\$ 24,895

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
AVERAGE RATE BASE - IRRIGATION
TEST YEAR ENDED DECEMBER 31, 2007

Description	<u>At 12/31/2006</u>	<u>At 12/31/2007</u>	<u>Average</u>
Plant in Service	\$ 1,107,207	\$ 1,107,207	
Accum. Depreciation	461,115	485,254	
Net-Plant-in-Service	<u>646,092</u>	<u>621,953</u>	\$ 634,023
Deduct:			
HCGETC	26,010	24,978	
CIAC	-	-	
Accumulated Deferred Income Tax	<u>179,150</u>	<u>187,429</u>	
	205,160	212,407	208,784
Subtotal	440,932	409,546	425,239
Average			425,239
Working Cash at Present Rates			<u>11,970</u>
Rate Base at Present and Proposed Rates			<u>\$ 437,209</u>

DOCKET NO. 06-0409
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITIES COMPANY
WORKING CASH REQUIREMENT - IRRIGATION
TEST YEAR ENDED DECEMBER 31, 2007

Operating Expenses		
601.1	Pumping - Oper Labor	\$ 6,011
601.2	Pumping - Maint. Supv & Eng.	2,851
601.3	Water Treat. Labor	5,547
615.1	Pumping - Purchased Power	92,208
620.1	Pumping - Oper. Exp.	1,044
620.2	Pumping - Maint Supv. & Eng.	1,428
620.3	Water Treatment - Exp.	708
620.6	Irrigation T&D Materials	-
635.2	Pumping - Maint. Contr. Svs.	7,032
642.5	Rental Equipment	-
	General & Admin	26,809
	Total O & M	<u>143,638</u>
	Number of months in a year	<u>12</u>
	Working Cash	<u><u>\$ 11,970</u></u>

CERTIFICATE OF SERVICE

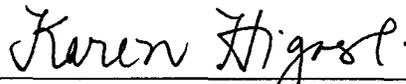
I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 24085 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
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Karen Higashi

DATED: MAR 10 2008