

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
 KAPALUA WATER COMPANY, LTD.)
)
 For Review and Approval of Rate)
 Increases; Revised Rate Schedules;)
 and Revised Rules.)
 _____)

DOCKET NO. 2008-0325

ORDER REGARDING SUBMISSION OF UNAUDITED
FINANCIAL INFORMATION AND MODIFIED TEST YEAR

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

PUBLIC UTILITIES
COMMISSION

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FILED

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KAPALUA WATER COMPANY, LTD.)

Docket No. 2008-0325

For Review and Approval of Rate)
Increases; Revised Rate Schedules;)
and Revised Rules.)

ORDER GRANTING KWC'S MOTION TO WAIVE CERTAIN
GENERAL RATE CASE APPLICATION REGULATORY REQUIREMENTS

By this Order, the commission approves KAPALUA WATER COMPANY, LTD.'s ("KWC") requests to submit unaudited financial information in lieu of an audited balance sheet and utilize a 2009 calendar test year in connection with its application for a general rate increase.

I.

Background

By motion filed on December 30, 2008, KWC requests commission approval to: (1) submit unaudited financial information in lieu of the audited balance sheet required by Hawaii Administrative Rules ("HAR") § 6-61-75(b)(1); and (2) utilize calendar 2009 test year financial data in place of the mid-year 2009-2010 test year data that would otherwise be

required by HAR § 6-61-88(3)(A).¹ KWC makes its requests pursuant to HRS § 269-16(f), as amended, and HAR §§ 6-61-41 and 6-61-92.

In its Motion, KWC asserts:

1. KWC intends to file its application for review and approval of rate increases² sometime in January or February 2009.³

2. KWC does not currently have any audited financial statements and because of its limited size and revenues, KWC believes it would be unduly burdensome and time consuming for KWC to prepare audited financial information solely for the purpose of complying with HAR § 6-61-75(b)(1). In addition, it would significantly delay KWC's ability to file its application in early 2009.⁴

3. KWC has been preparing its application and all supporting exhibits and testimony with the goal of filing it by the end of 2008, which would have allowed the use of a 2009 calendar test year pursuant to HAR § 6-61-88(3)(B), however, for workload reasons and KWC's desire to ensure that the application and supporting exhibits and testimony are

¹KWC's Motion to Waive Certain General Rate Case Application Regulatory Requirements, Memorandum in Support of Motion, and Certificate of Service, filed on December 30, 2008 (collectively, "KWC's Motion"). KWC served copies of its Motion upon the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). The Consumer Advocate is an ex officio party to all proceedings before the commission pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62.

²KWC filed its Application on January 15, 2009.

³KWC's Motion, at 2.

⁴KWC's Motion, at 2-3.

fully accurate and consistent, KWC was unable to file the application by December 31, 2008. Adhering to a mid-year test year (July 1, 2009 to June 30, 2010) as required by HAR § 6-61-88(3)(A) will necessitate re-doing all of KWC's financial and related exhibits which have been under preparation "for some time." KWC states that "re-doing these documents would be an onerous and expensive proposition for KWC."⁵

4. KWC has annual gross revenues of less than \$2,000,000. Therefore, HRS § 269-16(f), as amended, provides the commission with the authority to make and amend its rules and procedures to accommodate KWC's requests.⁶

In summary, KWC seeks: (1) a waiver of the audited balance sheet requirement; and (2) approval to utilize the calendar 2009 test year in lieu of a mid-year test year. KWC does not request a hearing on its Motion.⁷

II.

Discussion

HAR § 6-61-75(b)(1) states, in relevant part:

(b) The financial statement submitted pursuant to subsection (a) shall be accompanied by:

(1) An audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year;

HAR § 6-61-75(b)(1).

⁵KWC's Motion, at 3.

⁶KWC's Motion, at 3-4.

⁷The Consumer Advocate did not submit any statement of position on the Motion.

HAR § 6-61-88(3) also states, in relevant part:

For an application by a public utility with annual gross revenues from its public utility business of less than \$2,000,000 for a general rate increase or to alter any classification, contract, practice, or rule as to result in a general rate increase to be considered a completed application under section 269-16, HRS, the application, in addition to meeting the requirements of section 6-61-86, must contain the following:

(3) A summary of estimated earnings (rate of return summary) on a depreciated rate base for a twelve month period (test year). The adjusted or estimated results shown for the test year shall be on a consistent basis reflecting normalized conditions to the best estimate possible. The test year shall be a forward test year, determined as follows:

(A) If an application is filed within the first six months of any year, the test year shall be from July 1 of the same year through June 30 of the following year; or

(B) If an application is filed in the last six months of any year, the test year shall be from January 1 through December 31 of the following year . . .

HAR § 6-61-88(3). The commission, however, may modify the requirements of sections 6-61-75(b)(1) and 6-61-88(3) if the requirements would "impose a financial hardship on the applicant or be unjust or unreasonable." HAR § 6-61-92.⁸

Here, KWC is a public utility with annual gross revenues of less than \$2 million. According to KWC, it does not have audited financial statements and it would be unduly

⁸HRS § 269-16(f) authorizes the commission to "amend its rules and procedures to provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers."

burdensome and time-consuming to prepare audited financial information to comply with HAR § 6-61-75(b)(1). In addition, KWC represents that to prepare audited financial information solely for the purpose of complying with this provision would "significantly delay" KWC's ability to file its application and re-doing its documents would be "an onerous and expensive proposition for KWC."⁹

Based on the foregoing, it appears that application of the audited balance sheet and test year requirements in HAR §§ 6-61-75(b)(1), 6-61-88(3) would impose a financial hardship on KWC. Accordingly, the commission finds good cause to: (1) waive the audited balance sheet requirement, subject to the condition that KWC make available for review all documentation in support of its financial statements, including all books and records;¹⁰ and (2) waive the test year requirement and allow KWC to utilize a 2009 calendar test year, including the use of calendar year 2009 financial data.

III.

Orders

THE COMMISSION ORDERS:

1. KWC's Motion to submit unaudited financial information in lieu of an audited balance sheet, and to utilize calendar year 2009 financial data, filed on December 30, 2008, is granted.

⁹KWC's Motion, at 3.

¹⁰See In re KRWC Corporation, Docket No. 05-0334, Order No. 22236, filed on January 24, 2006, at 5 n.7.

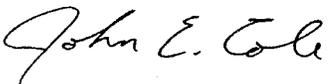
2. KWC is authorized to submit its unaudited financial information in lieu of an audited balance sheet, subject to the condition that KWC make available for review all documentation in support of its financial statements, including all books and records.

3. KWC is authorized to utilize a 2009 calendar test year, including the use of calendar year 2009 financial data.

DONE at Honolulu, Hawaii JAN 30 2009.

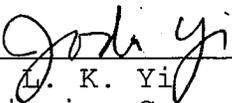
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Jodi L. K. Yi
Commission Counsel

2008-0325.laa

CERTIFICATE OF SERVICE

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

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