

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
NORTH SHORE WATER COMPANY, LLC)
For a Certificate of Public)
Convenience and Necessity to)
Provide Water Services on the)
Island of Oahu, District of)
Waialua, and for Approval of Rules)
And Rates.)

DOCKET NO. 2008-0180

ORDER ADOPTING STIPULATED PROCEDURAL ORDER

RECEIVED

2009 MAR 13 A 9:57

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

PUBLIC UTILITIES
COMMISSION

2009 MAR 12 P 12:43

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

NORTH SHORE WATER COMPANY, LLC)

Docket No. 2008-0180

For a Certificate of Public)
Convenience and Necessity to)
Provide Water Services on the)
Island of Oahu, District of)
Waialua, and for Approval of Rules)
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ORDER ADOPTING STIPULATED PROCEDURAL ORDER

By this Order, the commission adopts the revised proposed Stipulated Procedural Order filed by NORTH SHORE WATER COMPANY, LLC ("NSWC") and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate")¹ on February 13, 2009.²

I.

Background

On September 12, 2008, NSWC filed an application requesting a certificate of public convenience and necessity to

¹The Parties to this docket are NSWC and the Consumer Advocate, which is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. MOKULEIA BEACH COLONY ("Participant") is a Participant.

²The Parties submitted a proposed stipulated procedural order on January 14, 2009. However, by letter filed on January 22, 2009, NSWC indicated that the Parties and Participant would be submitting a revised proposed stipulated procedural order for the commission's review, which was filed on February 13, 2009.

provide water service in Mokuleia, in the district of Waialua, on Oahu and approval of its proposed rates, charges and rules ("Application"). With respect to rates, NSWC requested approval of a rate increase of approximately \$90,160 or about 175.55%, over total revenues at present rates for the calendar 2009 test year ("Test Year").³ NSWC filed its Application pursuant to HRS §§ 269-7.5 and 269-16, as amended, and HAR §§ 6-61-74 and 6-61-75.⁴

On October 9, 2008, prior to the Public Hearing, Participant filed its Motion to Intervene and, then, on October 14, 2008, Participant filed its Memorandum in Support of its Motion to Intervene (collectively, "Motion to Intervene").

On November 7, 2008, the commission issued its Order on Application Completeness and Filing of Proposed Procedural Order ("Order on Completeness"). In that order, the commission directed the Parties to submit a stipulated procedural order setting forth the issues, procedural schedule, and procedures to govern the proceedings in this docket, within thirty days of the commission's order addressing intervention or participation without intervention; or if no such motions are filed, within thirty days of the deadline for intervention. Further, the Order

³NSWC also requested approval to establish a Repair and Maintenance Reserve of \$12,518 for the Test Year.

⁴Pursuant to HRS §§ 269-16 and 269-12, the commission held a public hearing regarding NSWC's Application on November 10, 2008, at Waialua High and Intermediate School cafeteria, at 6:00 p.m. ("Public Hearing").

on Completeness stated that if the Parties are unable to agree on a procedural order, as prescribed, the commission will issue its own procedural order.

On December 31, 2008, the commission issued its Order Denying Intervention and Granting Participation in response to Participant's Motion to Intervene.

II.

Discussion

As set forth in the Order on Completeness, the deadline for the Parties and Participant to file their revised proposed Stipulated Procedural Order was January 30, 2009. The Parties, however, filed their revised proposed stipulated document on February 13, 2009.⁵ Moreover, Participant did not sign the Parties' revised proposed Stipulated Procedural Order, timely file its own proposal for the commission's review and consideration, or file an opposition to the Parties' revised proposed Stipulated Procedural Order.⁶

Since the commission finds that the issuance of a procedural order in this docket will aid in the "just, speedy, and inexpensive determination of [this] proceeding[,]" consistent

⁵The Parties did not submit a request for an enlargement of time to submit the revised proposed document and did not move for an enlargement of time claiming excusable neglect under HAR § 6-61-23(a)(2).

⁶Under HAR 6-61-41, Participant had five days after being served the Parties' proposed Stipulated Procedural Order to file an opposition to the document.

with HAR § 6-61-1,⁷ the commission finds it reasonable to adopt the Parties' revised proposed Stipulated Procedural Order to govern the proceedings in this docket. Thus, the commission concludes that the Parties' revised proposed Stipulated Procedural Order, filed on February 13, 2009, and attached as Exhibit A to this Order, should be adopted to govern the proceedings in this docket.

III.

Order

THE COMMISSION ORDERS:

The Parties' revised proposed Stipulated Procedural Order, filed on February 13, 2009, and attached as Exhibit A to this Order, is adopted by the commission to govern the proceedings of this docket.

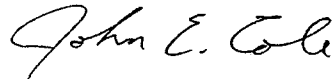
⁷Moreover, HRS § 269-16(d) requires the commission to "make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application[.]"


DONE at Honolulu, Hawaii

MAR 12 2009

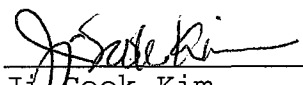
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

2008-0180.laa

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
NORTH SHORE WATER COMPANY, LLC)
For a Certificate of Public)
Convenience and Necessity to Provide Water)
Services on the Island of Oahu, District of)
Waialua, and for Approval of Rules and Rates)
_____)

DOCKET NO. 2008-0180

STIPULATED PROCEDURAL ORDER

and

CERTIFICATE OF SERVICE

FILED

2009 FEB 13 P 2:00

PUBLIC UTILITIES
COMMISSION

EXHIBIT A

STIPULATED PROCEDURAL ORDER

NORTH SHORE WATER COMPANY, LLC ("NSWC"), THE DIVISION OF CONSUMER ADVOCACY OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (the "Consumer Advocate"), which may separately be referred to as a "party" and/or together as the "parties", and participant MOKULEIA BEACH COLONY ("participant") by and through their respective attorneys/representatives and pursuant to the Order filed on November 7, 2008, in this proceeding do hereby stipulate to the following provisions of this Stipulated Procedural Order as being mutually acceptable.

ACCORDINGLY, IT IS ORDERED that the following Statement of Issues, Schedule of Proceedings, and procedures shall be used in this docket.

I.

STATEMENT OF THE ISSUES

The issues in this case are:

1. Whether the Application of North Shore Water Company, LLC, for a Certificate of Public Convenience and Necessity to Provide Water Services on the Island of Oahu, District of Waialua, and for Approval of Rules and Rates, filed herein on September 12, 2008, supports a finding that Applicant is fit, willing and able to properly perform the service proposed and to conform to the terms, conditions and rules adopted by the Commission, and should be approved.
2. Whether Applicant's proposed service is, or will be, required by the present or future public convenience and necessity.
3. Whether the geographical scope of NSWC's proposed service is accurate and reasonable under all the circumstances and should be approved.
4. Whether the rates and rules proposed by NSWC are reasonable and should be approved.

5. Whether any other relief as may be just and reasonable should be granted under the circumstances.

II.

The parties and the participant shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached hereto as Exhibit "A".

Notwithstanding the above, the parties and the participant may amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time; provided that the requesting party or participant receive the Commission's approval in accordance with HAR §6-61-23, to the extent applicable. However, the intent of the parties and the participant in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources. Therefore, any changes to the schedule should be proposed only when there is an urgent or substantial competing need that cannot be reasonably accommodated without a change.

III.

REQUESTS FOR INFORMATION

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information. If the parties are unable to agree, the inquiring party may seek approval from the Commission and make a showing of good cause. It is then within the Commission's discretion to allow additional information requests.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such

information is available on computer disc, the party responding to the information request may make the disc available to the other party and the Commission. A party shall not be required, in a response to an information request, to provide data that is/are already on file with the commission or otherwise part of the public record, or that may be stipulated to pursuant to Part VI, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitive, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to a protective order.

A party seeking production of documents notwithstanding a party's claim of confidentiality may file a motion to compel production with the Commission.

IV.

MATTERS OF PUBLIC RECORD

To reduce unnecessary reproduction of documents, and to facilitate these proceedings, identified matters of public record, such as reports that NSWC has filed with the Commission, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

V.

COPIES OF FILINGS AND INFORMATION REQUESTS

1. Filings: Copies of all filings with the Commission shall be provided to the following parties and participant, unless a protective order issued in connection with this docket states otherwise:

Public Utilities Commission
465 South King Street
First Floor
Honolulu, Hawaii 96813

Original plus 8 copies

Division of Consumer Advocacy
335 Merchant Street
Room 326
Honolulu, Hawaii 96813
Facsimile No: 586-2780

2 copies

Marie E. Riley, Esq
White Tom & Oyasato
900 Fort Street
Pioneer Plaza Suite 930
Honolulu, Hawaii 96813

2 copies

Michael W. Gibson, Esq.
Ashford & Wriston
1099 Alakea Street
P.O. Box 131
Honolulu, Hawaii 96813
Attorney for Participant, Mokuleia Beach Colony

2 copies

2. Information Requests and Responses: Copies of all information requests and information request responses shall be provided to the following parties, unless a protective order issued in connection with this docket states otherwise:

Public Utilities Commission
465 South King Street
First Floor
Honolulu, Hawaii 96813

Original plus 8 copies

Division of Consumer Advocacy
335 Merchant Street
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Michael W. Gibson, Esq.
Ashford & Wriston
1099 Alakea Street
P.O. Box 131
Honolulu, Hawaii 96813
Attorney for Participant, Mokuleia Beach Colony

2 copies

All pleadings, briefs and other documents required to be filed with the Commission shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Hawaii Administrative Rules ("HAR") §6-61-15.

Copies of all filings, information requests and information request responses should be sent to the other parties and the participant by hand delivery or U.S. mail. In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via diskette or e-mail in a standard electronic format that is readily available to the parties. The parties agree to use Word 2000 or Word 2003 as the standard format for filings in this case. However, if work papers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such work papers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 2000/Word 2003 as long as the applicable format is identified. In the event that a copy of a filing, information request or information request response is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or via facsimile as provided above.

VI.

COMMUNICATIONS

HAR §6-61-29 concerning *ex parte* communications is applicable to any communications between a party or participant and the Commission. However, the parties or participant may communicate with Commission counsel through their own counsel or designated official only as to matters of process and procedure.

Communications among the parties and participant should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party as provided in Article V above.

All motions, supporting memoranda, briefs, and the like shall also be served on opposing counsel.

VII.
GENERAL

These procedures are consistent with the orderly conduct of this docket.

This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the parties and participant in writing and approved by the Commission, or upon the Commission's own motion. This Stipulated Procedural Order may be executed by the parties and participant in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The parties and participant may execute this Stipulated Procedural Order by facsimile or electronic mail for initial submission to the Commission to be followed by the filing of originals of said facsimile or electronic mail pages.

Dated: Honolulu, Hawaii, 12 February, 2009.

By Marie E. Riley
MARIE E. RILEY
AIMEE H. OYASATO
Attorneys for North Shore Water
Company, LLC

By Catherine P. Awakuni
CATHERINE P. AWAKUNI
Executive Director
Division of Consumer Advocacy

By /declined/
Michael W. Gibson, Esq.
Attorney for Participant,
Mokuleia Beach Colony

APPROVED AND SO ORDERED this _____ day of _____, 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:

Ji Sook Kim
Commission Counsel

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
Docket No. 2008-0180

	DATE	# DAYS	PROCEDURAL STEPS
1.	September 12, 2008	-----	Application filed at PUC
2.	December 31, 2008	-----	Order Denying Intervention and Granting Participation filed by PUC
3.	Tuesday, January 13, 2009	-----	Consumer Advocate's Submission of Information Requests (IR)
4.	Friday, February 13, 2009	-----	File Stipulated Procedural Order
5.	Friday, February 27, 2009	30 days	Applicant's Responses to Consumer Advocate's Submission of IRs
6.	Friday, March 13, 2009	14 days	Consumer Advocate's Submission of Supplemental Requests (SIRs)
7.	Monday, March 30, 2009	17 days	Applicant's Responses to Consumer Advocate's Submission of SIRs
8.	Monday, April 13, 2009	14 days	Consumer Advocate's Position Statement and Participant's Position Statement
9.	Monday, April 20, 2009	7 days	Applicant's settlement proposal
10.	Wednesday, April 22 – Friday, April 24, 2009		Settlement discussions
11.	Friday, May 1, 2009	7 days	Applicant's Rebuttal Position Statement (if necessary); Or Alternatively, Parties' Settlement Agreement or Partial Settlement Agreement with Applicant's Rebuttal Position re Remaining Issues (if necessary)
12.	June 12, 2009	42 days	Decision and Order

CERTIFICATE OF SERVICE

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

Division of Consumer Advocacy
335 Merchant Street
Room 326
Honolulu, Hawaii 96813
Facsimile No: 586-2780

Marie E. Riley, Esq
White Tom & Oyasato
900 Fort Street
Pioneer Plaza Suite 930
Honolulu, Hawaii 96813

Michael W. Gibson, Esq.
Ashford & Wriston
1099 Alakea Street
P.O. Box 131
Honolulu, Hawaii 96813
Attorney for Participant, Mokuleia Beach Colony

CERTIFICATE OF SERVICE

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

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

CLIFFORD R. SMITH
SENIOR VICE PRESIDENT
KENNEDY WILSON
9601 Wilshire Blvd., Suite 220
Beverly Hills, CA 90210

MARIE E. RILEY, ESQ.
WHITE TOM & OYASATO
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Attorney for NORTH SHORE WATER COMPANY, INC.

MICHAEL W. GIBSON, ESQ.
ASHFORD & WRISTON
1099 Alakea Street
P.O. Box 131
Honolulu, HI 96813

Attorney for MOKULEIA BEACH COLONY