

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
)  
WAIKOLOA WATER CO., INC., WAIKOLOA )  
SANITARY SEWER CO., INC., WAIKOLOA )  
RESORT UTILITIES, INC., and HAWAII )  
WATER SERVICE COMPANY, INC. )  
)  
Requesting Approval of (a) the Sale )  
of the Stock of Waikoloa Water Co., )  
Inc., Waikoloa Sanitary Sewer Co., )  
Inc., and Waikoloa Resort Utilities, )  
Inc., to Hawaii Water Service )  
Company, Inc., Pursuant to Hawaii )  
Revised Statutes §§ 269-17.5 and )  
269-18; and (b) Financing )  
Arrangements pursuant to Hawaii )  
Revised Statutes § 269-17. )  
)

DOCKET NO. 2008-0018

ORDER (1) GRANTING APPLICANTS' MOTION  
FOR CLARIFICATION AND/OR MODIFICATION OF  
THE COMMISSION'S ORDER GRANTING DIVISION OF  
CONSUMER ADVOCACY'S MOTION FOR CLARIFICATION  
AND/OR MODIFICATION OF THE COMMISSION'S DECISION  
AND ORDER ISSUED ON AUGUST 20, 2008, FILED ON OCTOBER 6, 2008  
AND (2) APPROVING REVISED TARIFF SHEETS FILED FEBRUARY 9, 2009

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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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WAIKOLOA WATER CO., INC., WAIKOLOA ) Docket No. 2008-0018  
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AND ORDER ISSUED ON AUGUST 20, 2008, FILED ON OCTOBER 6, 2008  
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By this Order, the commission: (1) grants WAIKOLOA  
WATER CO., INC. ("WWC"), WAIKOLOA SANITARY SEWER CO., INC.  
("WSSC"), and WAIKOLOA RESORT UTILITIES, INC. ("WRU")  
(collectively, "the Waikoloa Utilities") and HAWAII WATER SERVICE  
COMPANY, INC.'s ("HWSC") (the Waikoloa Utilities and HWSC are  
collectively referred to as "Applicants") Motion for  
Clarification and/or Modification of the Commission's Order  
Granting the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS,

DIVISION OF CONSUMER ADVOCACY'S ("Consumer Advocate")<sup>1</sup> Motion for Clarification and/or Modification of the Commission's Decision and Order Issued on August 20, 2008, in the Above Docketed Matter, filed on October 6, 2008; and (2) finds that the revised tariff sheets filed by Applicants on February 9, 2009 comply with the commission's Decision and Order filed on August 20, 2008.

I.

Motion

By Decision and Order filed on August 20, 2008 ("Decision and Order"), the commission directed:

1. The proposed sales of WWC, WSSC, and WRU's stock to HWSC, and proposed financing arrangements, as described in the Application, are approved, subject to the following terms and conditions:

. . . .  
(b) HWSC may adopt the Waikoloa Utilities' tariffs and applicable rates previously approved for the three Waikoloa Utilities and currently in effect. Upon closing of the proposed sale, HWSC shall refile the tariffs to reflect the change in ownership and service provider.

Decision and Order, at 25-26.

On August 28, 2008, the Consumer Advocate filed a motion for clarification and/or modification of the Decision and Order. By the Order Granting Division of Consumer Advocacy's Motion for Clarification and/or Modification of the Commission's

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<sup>1</sup>The Consumer Advocate is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62(a).

Decision and Order Issued on August 20, 2008, filed on September 24, 2008 ("Order Granting Clarification"), the commission stated as follows:

Decision and Order, filed on August 20, 2008, is hereby clarified:

- (a) The refinancing of WWC's [Debt] to Perry R. Bass, Inc. ["WWC's Debt"] and the associated costs of such debt shall not be recognized for ratemaking purposes; and
- (b) HWSC shall maintain a separate accounting of costs incurred relating to the Instant Motion and record those costs in "below the line" accounts until HWSC's next rate case. HWSC shall not be permitted, either directly or indirectly, to recover any of the transition and transaction costs, from ratepayers.
- (c) Unless expressly addressed herein, the Decision and Order, filed on August 20, 2008, remains unchanged and in full force and effect.

Order Granting Clarification, at 3-4.

On October 6, 2008, Applicants filed a Motion for Clarification and/or Modification of the Commission's Order Granting Division of Consumer Advocacy's Motion for Clarification and/or Modification of the Commission's Decision and Order Issued on August 20, 2008, in the Above Docketed Matter ("Applicants' Motion"). Applicants "wish[ ] to clarify that [Ordering paragraph (b) of the Decision and Order] does not prevent HWSC from recovering the cost of the refinancing approved in the Order, with the exception of costs relating to the refinancing of WWC's [Debt]." <sup>2</sup> Applicants' Motion states:

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<sup>2</sup>Applicants' Motion, at 2.

[O]rdering paragraph (b) of the Order [Granting Clarification] is somewhat broader than the original ordering paragraph [in the Decision and Order], since it requires a separate accounting of costs incurred related to the "Instant Motion." The "Instant Motion" is defined as the Application, which sought approval of both the stock sale and the refinancing. Applicants are concerned that this language could be construed more broadly than the language in the Decision and Order [ ], to include costs related to the debt refinancing. Applicants, therefore, request that the [c]ommission clarify that the costs associated with the debt approved by the [c]ommission in the [ ] Decision and Order may be recognized for ratemaking purposes, with the exception of [WWC's] Debt and costs associated with the refinancing of such debt.

Based on the foregoing, Applicants respectfully request that the [c]ommission modify ordering paragraph (a) by adding the following sentence: "The costs associated with the refinancing of WRU's [D]ebt and WSS[C's] [D]ebt, as described in the Application, shall be recognized for ratemaking purposes." In addition, Applicants propose that the second sentence of paragraph (b) be revised consistent with ordering paragraph (a) [of] the Decision and Order as follows: "HWSC shall not be permitted, either directly or indirectly, to recover any of the transition or transaction costs associated with the stock sale from ratepayers."

The Consumer Advocate has informed Applicants that it does not object to the request for modification or clarification as set forth in this Motion.

Applicants' Motion, at 4 (emphasis in Applicants' Motion).

Upon review, the commission agrees that there may be some confusion regarding the phrase "Instant Motion" and finds Applicants' request for clarification to be reasonable. Therefore, the Order Granting Clarification is modified as follows:

- (1) The following sentence will be added to Ordering Paragraph (a): "The costs associated with the refinancing of WRU's Debt and WSSC's Debt, as described in the Application, shall be recognized for ratemaking purposes."
- (2) The second sentence of Ordering Paragraph (b) will state: "HWSC shall not be permitted, either directly or indirectly, to recover any of the transition or transaction costs associated with the stock sale from ratepayers."

## II.

### Revised Tariff Sheets

On February 9, 2009, HWSC filed its revised tariff sheets as required by Ordering Paragraph 1(b) of the commission's Decision and Order. As the tariff sheets are consistent with the Decision and Order, the commission approves them.

## III.

### Orders

#### THE COMMISSION ORDERS:

1. The Order Granting Division of Consumer Advocacy's Motion for Clarification and/or Modification of the Commission's Decision and Order Issued on August 20, 2008, in the Above Docketed Matter, filed on September 24, 2008, is modified as follows:

- (1) The following sentence will be added to Ordering Paragraph (a): "The costs associated with the refinancing of WRU's Debt and WSSC's Debt, as described in the Application, shall be recognized for ratemaking purposes."

(2) The second sentence of Ordering Paragraph (b) will state: "HWSC shall not be permitted, either directly or indirectly, to recover any of the transition or transaction costs associated with the stock sale from ratepayers."

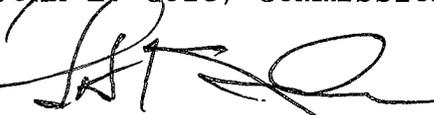
2. HWSC's revised tariff sheets, as set forth in its February 9, 2009 filing, are approved.

DONE at Honolulu, Hawaii MAR 12 2009.

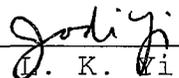
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Gole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Jodi L. K. Vi  
Commission Counsel

2008-0018.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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DIVISION OF CONSUMER ADVOCACY  
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WAIKOLOA SANITARY SEWER CO., INC.  
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