

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 REVISING STIPULATED REGULATORY  
SCHEDULE AND ORDER GRANTING PARTICIPATION

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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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For a Certificate of Public )  
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ORDER REVISING STIPULATED REGULATORY  
SCHEDULE AND ORDER GRANTING PARTICIPATION

By this Order, the commission revises: (1) the Stipulated Regulatory Schedule approved in the Order Adopting Stipulated Procedural Order, filed on March 12, 2009 ("Stipulated Regulatory Schedule") to allow the filing of briefs and other procedural matters in this proceeding; and (2) the Order Denying Intervention and Granting Participation, filed on December 31, 2008 ("Order Granting Participation") to extend Mokuleia Beach Colony's ("MBC" or the "Participant") participation in this proceeding.

I.

Background

On May 15, 2009, NORTH SHORE WATER COMPANY, LLC ("Applicant") and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate")

(collectively, the "Parties")<sup>1</sup> filed their Stipulated Partial Settlement Agreement ("Partial Stipulation") in this proceeding.<sup>2</sup>

In the Partial Stipulation, the Parties state that they have reached agreement on all issues in the docket, except for those issues related to the Supply Pipe.<sup>3</sup> With respect to the Supply Pipe, Applicant contends that ownership of the Supply Pipe is uncertain and that if any one owns the Supply Pipe, it is the individual customers. The Consumer Advocate disagrees. Concerned that the public interest may be adversely affected if the commission does not clearly establish ownership and responsibility for the Supply Pipe, the Consumer Advocate recommends that the commission find that the Supply Pipe is Applicant's responsibility and that Applicant has control over all aspects of the plant, property, and equipment necessary to provide service to its customers. Applicant objects to the Consumer Advocate's recommendation as being impossible to fulfill and does not wish to be compelled to accept the liabilities and responsibilities associated with the Supply Pipe.

According to the Parties, the "issues related to the Supply Pipe, including the maintenance, repair and ownership of the Supply Pipe, if left unresolved, perceivably impacts the

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<sup>1</sup>MBC was granted participant status in this proceeding in the Order Granting Participation.

<sup>2</sup>On the same day, Applicant filed its "Rebuttal Settlement."

<sup>3</sup>According to the Parties, the "Supply Pipe is understood to include the section of distribution pipeline extending beyond the [] bulk meter, makai of Farrington Highway to the end user meters." See Partial Stipulation at 1 n.3.

ability to reasonably determine [Applicant's] ability to provide service."<sup>4</sup> Thus, the Parties have agreed to brief the Supply Pipe issue, in lieu of an evidentiary hearing, as it relates to Applicant's ability to properly provide service to its customers. Specifically, they propose to submit written briefs to discuss their positions on the Supply Pipe and the proposed surcharge and reserve.

## II.

### Discussion

The commission will treat the Parties' proposal to submit written briefs on the Supply Pipe issues set forth in their Partial Stipulation as a motion to revise the Stipulated Regulatory Schedule. Upon review, the commission finds it reasonable to revise the Stipulated Regulatory Schedule, as amended,<sup>5</sup> to incorporate deadlines for the filing of simultaneous opening and reply briefs. At this juncture, the commission also finds it appropriate to include in the revised Stipulated Regulatory Schedule a date for an evidentiary hearing if deemed necessary by the commission upon review of the written submissions in the docket. The commission will also include deadlines for the filing of post-hearing briefs.

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<sup>4</sup>See Partial Stipulation at 9.

<sup>5</sup>By commission letter dated May 8, 2009, the Regulatory Schedule was amended, upon the request of the Parties, to extend the filing date of the Parties' settlement agreement (or partial settlement agreement) and/or Applicant's rebuttal statement from May 1, 2009, to May 15, 2009.

Further, given the current stage of this docket, the commission finds it appropriate to extend MBC's involvement in this proceeding. In the Order Granting Participation, MBC's participation in this proceeding was limited to receiving copies of all filings, responding to information requests, and filing a final position statement. At this time, MBC shall also be allowed to file briefs in this proceeding and shall be available at any evidentiary hearing for questioning. Thus, the Order Granting Participation is revised to extend MBC's participation in this proceeding as set forth above.

Based on the foregoing, the Stipulated Regulatory Schedule is revised as follows:

	Date	#Days	Procedural Step
15.	May 15, 2009		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)
16.	July 8, 2009		Parties' (and Participant's) Simultaneous Opening Briefs
17.	July 22, 1009	14	Parties' (and Participant's) Simultaneous Reply Briefs
18.	At the call of the commission		Evidentiary Hearing
19.	Three weeks after filing of transcripts		Parties' (and Participant's) Simultaneous Post-hearing Opening Briefs
20.	Two weeks after filing of Post-hearing Opening Briefs		Parties' (and Participant's) Simultaneous Post-hearing Reply Briefs

III.

Orders

THE COMMISSION ORDERS:

1. The Stipulated Regulatory Schedule, as amended, is revised as set forth in Section II of this Order.

2. The Order Granting Participation is revised to extend MBC's participation in this docket to allow Participant to file briefs in this proceeding and require Participant be available at any evidentiary hearing for questioning.

DONE at Honolulu, Hawaii JUN 19 2009.

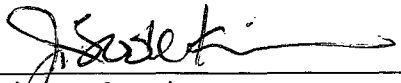
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

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.ps

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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