

43
Scan

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

MAUNA LANI STP, INC.)

DOCKET NO. 02-0392

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

ORDER NO. 20058

Filed March 6, 2003
At 8:00 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

RECEIVED
2003 MAR -6 P 4:17
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of))	
MAUNA LANI STP, INC.)	Docket No. 02-0392
)	
For Review and Approval of Rate)	Order No. 20058
Increases; Revised Rate Schedules.)	
_____)	

ORDER

I.

On February 27, 2003, MAUNA LANI STP, INC. (MLSTP) and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate) filed their stipulated prehearing order, in response to Order No. 19990, filed on January 29, 2003.

Upon review, the commission will approve the parties' stipulation, attached hereto as Exhibit 1, provided that the Stipulated Regulatory Schedule (designated by the parties as Exhibit A to their stipulated prehearing order) is modified by deleting the reference to Wednesday, September 24, 2003 as the date of the evidentiary hearing. Instead, the commission, at this time, will defer setting a date for the hearing.¹ Thus, item 16 of the parties' Stipulated Regulatory Schedule will now

¹The commission intends to set a date certain for the evidentiary hearing that shall be no earlier than September 24, 2003.

read as follows:

16.	Date to be set by the commission	Evidentiary Hearing (if no settlement)
-----	----------------------------------	--

In addition, the commission notes that the nine-month deadline for the issuance of a final decision is August 1, 2003. Hawaii Revised Statutes (HRS) § 269-16(d). Thus, the parties' agreement to schedule the hearing for September 24, 2003 effectively waives the requirement that a final order be issued within the nine-month period, i.e., by August 1, 2003.² The commission will approve this implied request for a waiver of the nine-month deadline.

II.

THE COMMISSION ORDERS:

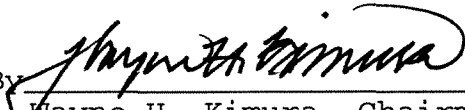
1. The parties' stipulated prehearing order, filed on February 27, 2003, is approved, subject to the modification to item 16 of their Stipulated Regulatory Schedule.

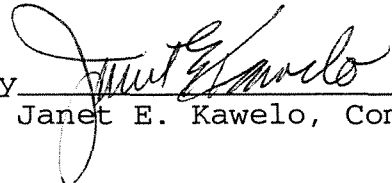
2. The parties' request for waiver of the nine-month deadline by which the commission must issue a final order is approved.

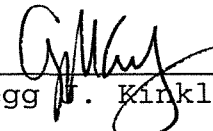
²Unless ordered otherwise, the ten-month deadline governing the issuance of a timely interim decision, if any, still applies. See, HRS § 269-16(d).

DONE at Honolulu, Hawaii this 6th day of March, 2003.

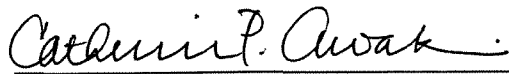
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

By 
Gregg F. Kinkley, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

02-0392.eh

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	Docket No. 02-0392
)	
of)	
)	
MAUNA LANI STP, INC.)	
)	
For review and approval of rate)	
increases; revised rate schedules.)	
_____)	

STIPULATED PREHEARING ORDER NO. _____

ALAN M. OSHIMA, ESQ.
FRANCIS K. MUKAI, ESQ.
LINNEL T. NISHIOKA, ESQ.
KENT D. MORIHARA, ESQ.
Oshima Chun Fong & Chung LLP
841 Bishop Street, Suite 400
Honolulu, Hawaii 96813
Telephone: (808) 528-4200
Facsimile: (808) 531-8466

Attorneys for Applicant
MAUNA LANI STP, INC.

LAUREEN K. K. WONG, ESQ.
250 South King Street
Room 825
Honolulu, HI 96813
Telephone: (808) 586-2800
Facsimile: (808) 586-2780

Attorney for
DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	Docket No. 02-0392
)	
of)	
)	
MAUNA LANI STP, INC.)	
)	
For review and approval of rate)	
increases; revised rate schedules.)	
_____)	

STIPULATED PREHEARING ORDER NO. _____

EXHIBIT "A"

and

CERTIFICATE OF SERVICE

Filed _____, 2003

At _____ o'clock _____.m.

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	Docket No. 02-0392
)	
of)	
)	
MAUNA LANI STP, INC.)	
)	
For review and approval of rate)	
increases; revised rate schedules.)	
_____)	

STIPULATED PREHEARING ORDER

Mauna Lani STP, Inc. ("Applicant" or "Mauna Lani") and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate") hereby stipulate to the following provisions of this Stipulated Prehearing Order as mutually acceptable to each.

I.

STATEMENT OF THE ISSUES

The issues in this case are:

1. Is Mauna Lani's proposed rate increase reasonable?
 - a. Are the proposed tariffs, rates and charges just and reasonable?
 - b. Are the revenue forecasts for Test Year ending December 31, 2003 at present rates and proposed rates reasonable?
 - c. Are the projected operating expenses for Test Year reasonable?
 - d. Is the projected rate base for Test Year reasonable, and are the properties included in the rate base used or useful for public utility purposes?
 - e. Is the rate of return requested fair?

II.

SCHEDULE OF PROCEEDINGS

The parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached hereto as Exhibit "A." Notwithstanding the above, the parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time. However, the intent of the parties 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 urgency or substantial competing need that cannot be reasonably accommodated without a change.

Notwithstanding the above, pursuant to the Commission's Order No. 19990 filed on January 29, 2003, the parties agree to submit a settlement agreement, if any, to the Commission for its review at least three (3) weeks prior to any evidentiary hearing that may be held with respect to the proceedings in this docket.

III.

REQUESTS FOR INFORMATION

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Prehearing 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 diskette,

the party responding to the information request may make the diskette 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 repetitious, 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.

WITNESSES

Witnesses submitting written testimony and exhibits shall be made available for cross-examination at the hearing. Witnesses should have the work papers used in preparing the

evidence they sponsor available at the hearing. Witnesses will not be permitted to read prefiled testimony at the hearings. Witnesses who will present both oral direct and rebuttal testimonies must present said testimonies at the same time.

In the oral presentation of the testimony, each witness may give a brief summary of the testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for both direct and rebuttal testimony and exhibits.

The parties in this case should cooperate to accommodate the schedules of any mainland witnesses and should inform the Commission in advance of any scheduling difficulties of mainland witnesses. If any party has any objection to scheduling a witness in advance of other witnesses, the party should make a timely objection to the Commission.

V.

FORM OF PREPARED TESTIMONY

All prepared testimony, including text and exhibits, shall be prepared in written form on 8-1/2" x 11" paper with line numbers, and shall be served on the dates designated in the Schedule of Proceedings.

Each party shall be permitted to follow its own numbering system for written testimony and exhibits, provided that the numbering system utilized is consistent and is clearly understandable. Each document of more than one page shall be consecutively numbered. Each party shall prepare a list of its exhibits by exhibit numbers and titles.

The parties shall be permitted to make revisions to exhibits after the designated dates appearing in the Schedule of Proceedings. Revisions shall bear appropriate revision dates. However, revisions or additions that do more than correct typographical errors, update facts, or give numerical comparisons of the positions taken by the parties, shall not be submitted.

Generally, exhibits should include appropriate footnotes or narratives in the exhibits or the related testimony setting forth the sources of the information used and explaining the methods employed in making statistical compilations or estimates.

VI.

MATTERS OF PUBLIC RECORD

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that Mauna Lani has filed with the Commission, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to electric 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.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

VII.

COPIES OF TESTIMONIES, EXHIBITS AND INFORMATION REQUESTS

1. Testimonies and Exhibits:

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

Original plus 8 copies

Division of Consumer Advocacy
250 South King Street
Room 825
Honolulu, HI 96813
E-Mail: ckikuta@dcca.state.hi.us
Facsimile Number: 586-2780

3 copies

Alan M. Oshima, Esq. 3 copies
Francis K. Mukai, Esq.
Linnel T. Nishioka, Esq.
Kent D. Morihara, Esq.
Oshima Chun Fong & Chung LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813
E-Mail: amo@ocfc.com
Facsimile Number: 531-8466

Florence M. Ozaki 1 copy
Vice President & Treasurer
Mauna Lani STP, Inc.
68-1400 Mauna Lani Drive, Suite 102
Kohala Coast, HI 96743-9726

2. Information Requests and Responses:

Public Utilities Commission Original plus 8 copies
465 South King Street
First Floor
Honolulu, HI 96813

Division of Consumer Advocacy 3 copies
250 South King Street
Room 825
Honolulu, HI 96813
E-Mail: ckikuta@dcca.state.hi.us
Facsimile Number: 586-2780

Alan M. Oshima, Esq. 3 copies
Francis K. Mukai, Esq.
Linnel T. Nishioka, Esq.
Kent D. Morihara, Esq.
Oshima Chun Fong & Chung LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813
E-Mail: amo@ocfc.com
Facsimile Number: 531-8466

Florence M. Ozaki 1 copy
Vice President & Treasurer
Mauna Lani STP, Inc.
68-1400 Mauna Lani Drive, Suite 102
Kohala Coast, HI 96743-9726

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 Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

VIII.

ORDER OF EXAMINATION

Pursuant to Chapter 61, subchapter 3, section 6-61-31, of the Commission's Rules of Practice and Procedure, Mauna Lani's witnesses shall open with its direct case. The Consumer Advocate's direct case shall be presented after Mauna Lani's direct case. Mauna Lani shall close with its rebuttal case.

Examination of any witness shall be limited to one attorney for a party. The parties shall avoid duplicative or repetitious cross-examination. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Re-cross-examination shall be limited to the extent of material covered in redirect examination unless otherwise permitted by the Commission.

IX.

COMMUNICATIONS

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning *ex parte* communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel through their own counsel or designated official only as to matters of process and procedure.

Communications between the parties 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 VI above.

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

X.

GENERAL

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

Pursuant to Chapter 61, subchapter 3, section 6-61-37 of the Commission's Rules of Practice and Procedure, the Prehearing Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearings to prevent manifest injustice.

Dated: Honolulu, Hawaii, February 27, 2003.

By Laureen K.K. Wong
LAUREEN K.K. WONG
Attorney for the CONSUMER
ADVOCATE

By Kent D. Mori
ALAN M. OSHIMA
FRANCIS K. MUKAI
LINNEL T. NISHIOKA
KENT D. MORIHARA
Attorneys for Applicant Mauna Lani STP,
Inc.

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
MAUNA LANI STP, INC.
Docket No. 02-0392

	DATE	PROCEDURAL STEPS
1.	Monday, November 1, 2002	Application Filed at PUC
2.	Thursday, January 9, 2003	Public Hearing
3.	Monday, March 3, 2003	Consumer Advocate Submission of IRs to Mauna Lani
4.	Friday, March 21, 2003	Mauna Lani Response to Consumer Advocate IRs
5.	Thursday, April 10, 2003	Consumer Advocate Submission of Supplemental IRs to Mauna Lani
6.	Friday, April 25, 2003	Mauna Lani Response to Consumer Advocate Supplemental IRs
7.	Tuesday, May 27, 2003	Consumer Advocate Direct Testimony and Exhibits
8.	Thursday, June 12, 2003	Mauna Lani Submission of IRs to Consumer Advocate
9.	Thursday, June 26, 2003	Consumer Advocate Response to Mauna Lani IRs
10.	Friday, July 11, 2003	Mauna Lani Rebuttal Testimonies
11.	Friday, July 25, 2003	Consumer Advocate Rebuttal IRs to Mauna Lani
12.	Wednesday, August 6, 2003	Mauna Lani Response to Consumer Advocate Rebuttal IRs
13.	Wednesday, August 13, 2003	Settlement Proposal (Mauna Lani to Consumer Advocate)
14.	Monday, August 18, 2003	Settlement Discussions

	DATE	PROCEDURAL STEPS
15.	Friday, August 22, 2003	Settlement Letter/Agreement (if any) to PUC
16.	Wednesday, September 24, 2003 (thru Thursday, September 25, 2003, if necessary) <i>To be set by the Commission</i>	Evidentiary Hearing (if no settlement)
17.		Interim Decision and Order (if no settlement)
18.	3 weeks after transcript completed and filed with the Commission	Simultaneous Post-Hearing Briefs from Mauna Lani/Consumer Advocate
19.		Decision and Order

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20058 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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

ALAN M. OSHIMA, ESQ.
FRANCIS K. MUKAI, ESQ.
LINNEL T. NISHIOKA, ESQ.
KENT D. MORIHARA, ESQ.
OSHIMA CHUN FONG & CHUNG LLP
841 Bishop Street, Suite 400
Honolulu, HI 96813

FLORENCE M. OZAKI
VICE PRESIDENT AND TREASURER
MAUNA LANI STP, INC.
68-1400 Mauna Lani Drive, Suite 102
Kohala Coast, HI 96743-9726



Karen Higashi

DATED: March 6, 2003