

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
KUKIO UTILITY COMPANY, LLC )  
For a Certificate of Public )  
Convenience and Necessity Pursuant )  
to Section 269-7.5, Hawaii Revised )  
Statutes, to Provide Water and )  
Sewage Treatment Services in Kukio, )  
North Kona, Hawaii; Approval of )  
Water Purchase Agreement with WB )  
Kukio Resorts, LLC Pursuant to )  
Section 269-19.5, Hawaii Revised )  
Statutes; and for Approval of )  
Rules, Regulations and Rates. )

DOCKET NO. 01-0433

ORDER NO. 20122

Filed April 14, 2003  
At 2:00 o'clock P.M.  
Karen Higashi  
Chief Clerk of the Commission

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

2003 APR 14 P 4:26

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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)  
KUKIO UTILITY COMPANY, LLC )  
For a Certificate of Public Convenience and Necessity Pursuant to Section 269-7.5, Hawaii Revised Statutes, to Provide Water and Sewage Treatment Services in Kukio, North Kona, Hawaii; Approval of Water Purchase Agreement with WB Kukio Resorts, LLC Pursuant to Section 269-19.5, Hawaii Revised Statutes; and for Approval of Rules, Regulations and Rates. )  

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Docket No. 01-0433

Order No. 20122

ORDER

I.

By Decision and Order No. 20103 (D&O No. 20103), filed on March 27, 2003, the commission among other things, granted KUKIO UTILITY COMPANY, LLC (Kukio) a certificate of public convenience and necessity (CPCN), pursuant to Hawaii Revised Statute § 269-7.5, to provide water and wastewater treatment services for Phase 1 of a master planned community known as the Kukio Beach Club situated at Kukio, North Kona, Hawaii. The granting of Kukio's CPCN was subject to certain terms and conditions. For instance, the commission ordered Kukio to submit revised tariff sheets and rate schedules, including rates for the non-potable irrigation service, by April 11, 2003.

On April 7, 2003, Kukio timely filed a Motion to Enlarge Time for Filing Motion for Reconsideration and/or Clarification of

Decision and Order No. 20103, and Motion to Stay Portions of Part VI, Subparts 4 and 5 of Decision and Order No. 20103 (motion to enlarge time and motion to stay portions of D&O No. 20103) (collectively, motions). Through its motions, Kukio moves the commission to grant its requests (1) to enlarge the time for filing a motion for reconsideration of D&O No. 20103, until April 30, 2003, pursuant to Hawaii Administrative Rules (HAR) § 6-61-23, and (2) to stay portions of Part VI, subparts 4 and 5 of D&O No. 20103 relating to the regulation of non-potable irrigation water service, pursuant to HAR § 6-61-138, pending a determination by the commission on Kukio's motion for reconsideration.

Kukio states that because of the demands of the current tax season, its outside regulatory accountant will not be able to prepare supporting documents for Kukio's motion for reconsideration by the April 8, 2003 deadline, in accordance with HAR §§ 6-61-137 and 6-61-21.<sup>1</sup> By a statement signed on April 7, 2003, the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (Consumer Advocate) states that it does not object to Kukio's motions.

## II.

Pursuant to HAR § 6-61-23(a), we may, in our discretion, grant a request for an enlargement of time upon a showing of good cause. Based upon Kukio's representation, and the

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<sup>1</sup>HAR § 6-61-137 provides that any motion for reconsideration shall be filed 10 days after a decision is served upon a party, while HAR § 6-61-21 allows an additional two days if the decision is served upon a party by mail.

Consumer Advocate's statement of no objection to any of Kukio's motions, the commission finds good cause to grant Kukio's motion for enlargement of time. The commission also finds good cause to stay portions of D&O No. 20103 relating to the regulation of non-potable irrigation water service, pursuant to HAR § 6-61-138, pending commission determination on Kukio's forthcoming motion for reconsideration.

### III.

#### THE COMMISSION ORDERS:

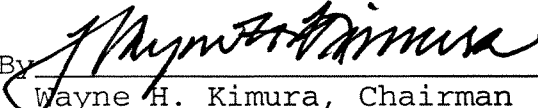
1. Kukio's Motion to Enlarge Time for Filing Motion for Reconsideration and/or Clarification of Decision and Order No. 20103 filed on March 27, 2003, and Motion to Stay Portions of Part VI, Subparts 4 and 5 of Decision and Order No. 20103, is granted.

2. Kukio shall file its motion for reconsideration and/or clarification by April 30, 2003.

3. The filing requirements related to the regulation of non-potable irrigation water service contained in Subparts 4 and 5, Part VI, of D&O No. 20103, are stayed until a commission determination is made on Kukio's motion for reconsideration.

DONE at Honolulu, Hawaii this 14th day of April, 2003.

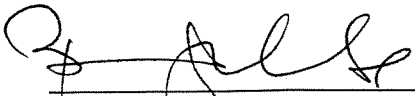
PUBLIC UTILITIES COMMISSION.  
OF THE STATE OF HAWAII

By   
Wayne H. Kimura, Chairman

By   
Janet E. Kawelo, Commissioner

By (RECUSED)  
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:

  
Benedyne S. Stone  
Commission Counsel

01-0433.sl

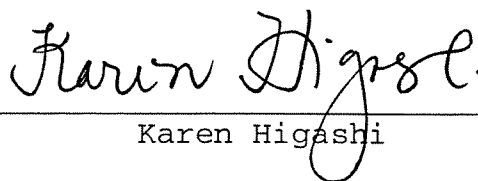
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20122 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

KUKIO UTILITY COMPANY, LLC  
Attention: Milton K. Morinaga  
P. O. Box 5349  
Kailua-Kona, HI 96745-5349

ALAN M. OSHIMA, ESQ.  
KENT D. MORIHARA, ESQ.  
OSHIMA, CHUN, FONG & CHUNG, LLP  
Davies Pacific Center, Suite 400  
841 Bishop Street  
Honolulu, HI 96813

  
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Karen Higashi

DATED: April 14, 2003