

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
KEALIA WATER COMPANY HOLDINGS, LLC)
)
For a Certificate of Public)
Convenience and Necessity to)
Provide Water Services on the)
Island of Kauai, District of)
Kealia, and for Approval of Rules,)
Regulations, and Rates.)
_____)

DOCKET NO. 03-0246

ORDER NO. 20743

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

2004 JAN -9 A 8:52

RECEIVED

Filed Jan. 8, 2004
At 2:30 o'clock P .M.

Karen Higashi.
Chief Clerk of the Commission

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

K. Higashi.

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Docket No. 03-0246

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ORDER

I.

Background

KEALIA WATER COMPANY HOLDINGS, LLC ("KWCH") requests a certificate of public convenience and necessity ("CPCN") authorizing it to provide water on the Island of Kauai, District of Kealia, and approval of its proposed rates, rules, and regulations. KWCH makes its requests in an application filed on August 29, 2003, under Hawaii Revised Statutes ("HRS") §§ 269-7.5 and 269-16 and Hawaii Administrative Rules ("HAR") §§ 6-61-74 and 6-61-75.

The DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") was served copies of KWCH's application.

Notice of KWCH's CPCN application was published on November 13, 2003, pursuant to HAR § 6-61-57(2). HAR § 6-61-57(2) requires a motion to intervene or participate in a proceeding regarding an application for the issuance or transfer

of a CPCN to be filed not later than twenty (20) days after the notice of the pending application is published.

KEALIA PLANTATION COMPANY, LLC ("KPC") filed a motion to intervene as a party to this proceeding on December 3, 2003, pursuant to HRS chapter 269, HAR § 6-61-55, and "all relevant documents on file with the commission" ("Motion"). KPC sets forth its qualifications for intervention in this proceeding and requests that the commission approves its Motion and allows it to fully participate as a party.

On December 12, 2003, KWCH filed a memorandum in opposition to the Motion ("Opposition"). In sum, KWCH contends that KPC's Motion should be denied since: (1) the Consumer Advocate can adequately represent KPC's interests; (2) KPC raises issues that are irrelevant to this proceeding; and (3) granting the Motion will unnecessarily broaden the issues and delay the proceeding.

KPC filed a letter on December 19, 2003, requesting leave to submit its reply to the Opposition ("Leave Request"), as incorporated ("Reply" or "Letter"). By letter filed on December 29, 2003, KWCH: (1) objects to the submission of the Reply; (2) requests that the commission strike the Letter from the record ("Strike Request"); and (3) in the alternative, requests time for it to submit substantive responses to the issues raised in the Reply ("Response"). This order addresses KPC's Leave Request, set forth in KPC's Letter filed on December 19, 2003, and KWCH's December 29, 2003 requests.

II.

KWCH's Strike Request and KPC's Leave Request

KWCH alleges that KPC's Reply is improper and, therefore, should be struck from the record. KWCH contends that KPC should have filed a motion for leave to file a reply since the commission's rules do not permit KPC to submit a reply as opposed to incorporating its reply with its Leave Request as set forth in the Letter.

Upon review, we find KWCH's arguments in support of its Strike Request to be unpersuasive. Thus, we conclude that KWCH's Strike Request should be denied and that KPC's Leave Request, as set forth in its Letter, should be granted.

III.

Request to File Response

Nonetheless, to allow KWCH and KPC every opportunity to address the pertinent issues related to the Motion, we find it reasonable to grant KWCH's request for additional time to file its Response. We also find it reasonable to allow KPC an opportunity to file reply comments to the Response. In the interest of expediency, KWCH and KPC should adhere to the "filing schedule" set forth below and their respective filings should only address matters raised in the prior filing and should not raise new issues and/or concerns.

1. Within seven (7) calendar days of the date of this order, KWCH shall file its Response to KPC's Reply, filed on December 19, 2003.

2. At its option, within seven (7) calendar days of the service date of KWCH's Response, KPC shall file its reply comments to KWCH's Response.¹

IV.

Orders

1. KWCH's Strike Request set forth in its December 29, 2003 letter is denied, and KPC's Leave Request, filed on December 19, 2003, is granted.

2. KWCH shall file its Response to the issues raised in the Reply within seven (7) calendar days of the date of this order.

3. If KPC chooses to file reply comments to the Response, KPC shall file its reply comments within seven (7) calendar days of the service date of KWCH's Response.

¹The commission will not accept further filings related to KPC's Motion, unless not doing so will result in manifest injustice and/or extraordinary circumstances require it.

DONE at Honolulu, Hawaii this 8th day of January,

2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 

Carlito P. Caliboso, Chairman

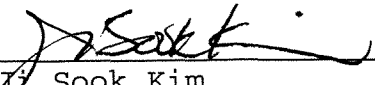
By 

Wayne H. Kimura, Commissioner

By 

Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:



Ji Sook Kim
Commission Counsel
03-0246.ac

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20743 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

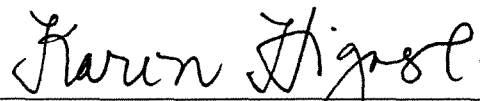
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

C. CLARK LIPSCOMB
PRESIDENT, REAL ESTATE DIVISION
CORNERSTONE HAWAII HOLDINGS, LLC
132 West Main Street
Aspen, CO 81611

J. DOUGLAS ING, ESQ.
PAMELA J. LARSON, ESQ.
TERI Y. KONDO, ESQ.
WATANABE ING KAWASHIMA & KOMEIJI LLP
999 Bishop Street, 23rd Floor
Honolulu, HI 96813

JUSTIN HUGHES
KEALIA PLANTATION COMPANY, LLC
c/o Law Offices of Walton D.Y. Hong
3135-A Akahi Street
Lihue, HI 96766

CRAIG I. NAKANISHI, ESQ.
RUSH MOORE CRAVEN SUTTON MORRY & BEH
737 Bishop Street, Suite 2400
Honolulu, HI 96813



Karen Higashi

DATED: January 8, 2004