

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

KAUAI ISLAND UTILITY COOPERATIVE )

DOCKET NO. 04-0041

For approval to commit funds in )  
Excess of \$500,000 for the Port )  
Allen steam plant automation )  
Project. )

ORDER NO. 21023

RECEIVED  
2004 JUN -2 P 4:03  
DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

Filed June 2, 2004

At 11:00 o'clock A.M.

Karen Higash  
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)	
KAUAI ISLAND UTILITY COOPERATIVE )	Docket No. 04-0041
For approval to commit funds in )	
Excess of \$500,000 for the Port )	Order No. 21023
Allen steam plant automation )	
Project. )	
_____ )	

ORDER

I.

Introduction

On April 23, 2004, the commission ordered KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") (collectively, "Parties") to meet informally to formulate the issues, procedures, and schedule with respect to this proceeding, to be set forth in a stipulated scheduling order.<sup>1</sup>

On May 6, 2004, KIUC and the Consumer Advocate filed their Proposed Stipulated Scheduling Order for commission review and approval.

Upon review, the commission will approve the Parties' Proposed Stipulated Scheduling Order, and incorporate it as part of this order, attached hereto as Exhibit 1, subject to certain

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<sup>1</sup>Order No. 20925, filed on April 23, 2004.

modifications to the Proposed Stipulated Scheduling Order, as described below.

On page 3 of the Proposed Stipulated Scheduling Order, the Parties acknowledge that under Section 2.3.g.2 of the commission's General Order No. 7, the commission's 90-day period to act upon the Application and render a Decision and Order is May 20, 2004; however, given the schedule agreed to by the Parties, KIUC waives the 90-day period and requests that the commission act upon the Application within thirty (30) days after either: (1) KIUC provides notice as provided above that the proceeding is ready for decision making (and KIUC does not file a Reply Statement of Position ("SOP")), or (2) KIUC files a Reply SOP. Upon review, the commission will grant KIUC's waiver of the Section 2.3.g.2 requirement that the commission render a decision within 90 days of the filing of a utility's application; however, the commission will not place a 30-day deadline to act upon the Application, as stipulated to by the Parties.

In addition, on page 3 of the Proposed Stipulated Scheduling Order, the Parties state, "if the [p]arties propose a hearing schedule, KIUC requests the commission to act upon the Application within forty-five (45) days after the submittal of the [p]arties' respective post-hearing briefs." Upon review, the commission will also not place a 45-day deadline to act upon the application, as stipulated by the Parties, if the Parties propose a hearing schedule.

II.


THE COMMISSION ORDERS:


1. The Parties' Proposed Stipulated Scheduling Order, filed on May 6, 2004, is approved and incorporated as part of this order (attached hereto as Exhibit 1), subject to the modifications described above.

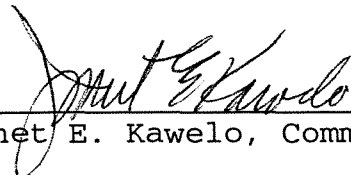
2. KIUC's waiver of the Section 2.3.g.2 requirement that the commission render a decision within 90 days of the filing of a utility's application is approved.

DONE at Honolulu, Hawaii this 2nd day of June, 2004.

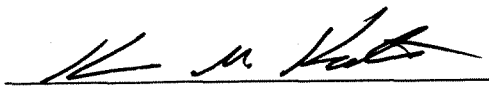
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Kevin M. Katsura  
Commission Counsel

04-0041.eh

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application	)	
	)	
of	)	Docket No. 04-0041
	)	
KAUAI ISLAND UTILITY COOPERATIVE	)	
	)	
For approval to commit funds in excess of	)	
\$500,000 for the Port Allen steam plant	)	
<u>automation project</u>	)	

STIPULATED SCHEDULING ORDER NO. \_\_\_\_\_

Filed \_\_\_\_\_, 2004

At \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk of the Commission

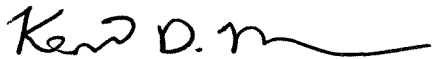
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In the Matter of the Application	)	
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KAUAI ISLAND UTILITY COOPERATIVE	)	
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For approval to commit funds in excess of	)	
\$500,000 for the Port Allen steam plant	)	
<u>automation project</u>	)	

STIPULATED SCHEDULING ORDER

Applicant KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (the "Consumer Advocate") hereby stipulate that the attached Stipulated Scheduling Order is mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, May 6, 2004.



ALAN M. OSHIMA, ESQ.  
KENT D. MORIHARA, ESQ.

Attorneys for Kauai Island Utility  
Cooperative



CHERYL S. KIKUTA  
Acting Executive Director  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs

BEFORE THE PUBLIC UTILITIES COMMISSION  
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In the Matter of the Application	)	
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\$500,000 for the Port Allen steam plant	)	
<u>automation project</u>	)	

STIPULATED SCHEDULING ORDER

On February 20, 2004, KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") filed an application for approval to commit funds in excess of \$500,000 for the Port Allen steam plant automation project. Applicant seeks approval pursuant to General Order No. 7, Standards for Electric Utility Service in the State of Hawaii ("General Order No. 7"), to commit funds for and to commence construction that is expected to cost in excess of \$500,000.

KIUC served copies of the application on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate").

By Order No. 20925 filed on April 23, 2004, the Commission directed KIUC and the Consumer Advocate to meet informally to formulate the issues, procedures and schedule with respect to this proceeding, to be set forth in a stipulated scheduling order.

KIUC and the Consumer Advocate have reached agreement on the issues, procedures and schedule with respect to this proceeding and hereby submit this

Stipulated Scheduling Order to the Commission, which is acceptable to the parties.

ACCORDINGLY, IT IS ORDERED that the following shall be utilized in this docket.

I.

STATEMENT OF ISSUE

The issue in this docket is whether the Port Allen steam plant automation project is necessary or useful for public utility purposes and whether the Commission should approve the commitment of funds for this project under Section 2.3.g.2 of General Order No. 7.

II.

SCHEDULE OF PROCEEDINGS

KIUC Application Filing	February 20, 2004
Consumer Advocate (CA) Information Requests (IRs) to KIUC <sup>1</sup>	April 29, 2004
KIUC IR Responses to CA <sup>1</sup>	May 20, 2004 <sup>2</sup>
CA Supplemental IRs ("SIRs") <sup>1</sup> , if necessary	June 4, 2004
KIUC Responses to SIRs <sup>1</sup>	June 18, 2004
CA Statement of Position ("SOP")	July 9, 2004
KIUC Reply SOP, if necessary*	July 30, 2004

- \* If the Consumer Advocate objects to approval of the Application, or requests that approval be subject to conditions.

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<sup>1</sup> Whenever possible, parties will provide copy of documents electronically upon request.

<sup>2</sup> The Consumer Advocate's information requests to KIUC filed on April 29, 2004 requested that the responses be provided to the Consumer Advocate by May 13, 2004. During the informal discussions between the parties to formulate this Stipulated Scheduling Order, the parties agreed to extend KIUC's response time to May 20, 2004.



If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation and the parties do not waive the right to a hearing, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If KIUC determines that a Reply SOP is unnecessary, KIUC will notify the Commission that the proceeding is ready for decision making.

The parties acknowledge that under Section 2.3.g.2 of the Commission's General Order No. 7, the Commission's 90-day period to act upon the Application and render a Decision and Order expires on May 20, 2004. Given the schedule agreed to by the parties, KIUC hereby waives the 90-day period and requests that the Commission act upon the Application within thirty (30) days after either: (1) KIUC provides notice as provided above that the proceeding is ready for decision making (and KIUC does not file a Reply SOP), or (2) KIUC files a Reply SOP.

Notwithstanding the above, if the parties propose a hearing schedule (because there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation and the parties do not waive the right to a hearing), KIUC requests the Commission in such a case to act upon the Application within forty-five (45) days after the submittal of the parties' respective post-hearing briefs.

### III.

#### MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

##### A. Requests for Information

To the extent practical, KIUC and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope or meaning of information requests, or with respect to the availability of information. 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.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials, 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 or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium 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 are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, 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 governing this docket.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

**B. Matters of Public Record**

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that KIUC has filed with the Commission, published decisions of this or other

Commissions, 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.

C. Copies of Filings and Information Requests.

1. Filings:

Commission	Original + 8 copies
KIUC	2 copies
Consumer Advocate	2 copies

2. Information Requests and Responses:

Commission	Original + 8 copies
KIUC	2 copies
Consumer Advocate	2 copies

3. All pleadings, 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.

4. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or via facsimile. In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via diskette or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97 or Word 2000 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or via facsimile as provided in Parts C.1 and C.2 above.

D. 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 on matters of practice and procedure through their own counsel or designated official.

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

E. 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, this Stipulated Scheduling Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearings to prevent manifest injustice.

DONE at Honolulu, Hawaii, this \_\_\_\_ day of \_\_\_\_\_, 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:

\_\_\_\_\_  
Kevin Katsura  
Commission Counsel

CERTIFICATE OF SERVICE

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

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813

ALTON MIYAMOTO  
President and Chief Executive Officer  
Kauai Island Utility Cooperative  
4463 Pahe'e Street  
Lihue, Hawaii 96766-2032

MR. JOSEPH M<sup>C</sup>CAWLEY  
Manager – Regulatory Affairs  
Kauai Island Utility Cooperative  
4463 Pahe'e Street  
Lihue, Hawaii 96766-2032

MR. GARY W. PEERS  
Vice President - Production  
Kauai Island Utility Cooperative  
4463 Pahe'e Street  
Lihue, Hawaii 96766-2032

ALAN M. OSHIMA, ESQ.  
KENT D. MORIHARA, ESQ.  
Oshima Chun Fong & Chung LLP  
841 Bishop Street, Suite 400  
Honolulu, Hawaii 96813

\_\_\_\_\_  
Karen Higashi

DATED: \_\_\_\_\_

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21023 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

MR. JOSEPH MCCAWLEY  
MANAGER - REGULATORY AFFAIRS  
KAUAI ISLAND UTILITY COOPERATIVE  
4463 Pahe'e Street  
Lihue, HI 96766-2032

MR. GARY W. PEERS  
VICE PRESIDENT - PRODUCTION  
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ALAN M. OSHIMA, ESQ.  
KENT D. MORIHARA, ESQ.  
OSHIMA CHUN FONG & CHUNG LLP  
841 Bishop Street, Suite 400  
Honolulu, HI 96813

ALTON MIYAMOTO  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
KAUAI ISLAND UTILITY COOPERATIVE  
4463 Pahe'e Street  
Lihue, HI 96766-2032

  
\_\_\_\_\_  
Karen Higashi

DATED: June 2, 2003