

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAII WATER SERVICE COMPANY, INC. )  
For Approval of Rate Increases and )  
Revised Rate Schedules, and to )  
Enter into Financing Arrangements. )  

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DOCKET NO. 03-0275

ORDER NO. 21476

Filed Nov. 26, 2004  
At 12:15 o'clock P.M.

Brooke K. Kane  
for Chief Clerk of the Commission

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

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BROOKE K. KANE  
Administrative Director  
Public Utilities Commission  
State of Hawaii

Brooke K. Kane

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In the Matter of the Application of )  
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For Approval of Rate Increases and ) Order No. 21476  
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ORDER

Stipulated Prehearing Order No. 21072, filed on June 23, 2004, as amended, sets forth the procedural deadlines governing HAWAII WATER SERVICE COMPANY, INC.'s ("HWSC") request for a general rate increase, including the deadline date of November 22, 2004 for HWSC and the Division of Consumer Advocacy ("Consumer Advocate") (collectively, the "Parties") to file their settlement letter/agreement, if any, with the commission.<sup>1</sup>

At this juncture, in lieu of a settlement agreement, HWSC notifies the commission that settlement discussions with the Consumer Advocate are on-going:

Because of the progress made in informal settlement discussions, and in order to give the [P]arties an opportunity to attempt to reach a settlement on the disputed issues, HWSC respectfully requests that the regulatory schedule be amended such that the [P]arties will not submit [a] Settlement Letter on November 22, 2004, and, if a settlement is reached, they will file a Stipulation in Lieu of Evidentiary Hearing on December 6, 2004. . . . In the event settlement

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<sup>1</sup>For the amendments made to Stipulated Prehearing Order No. 21072, see the commission's correspondence, dated July 19, 2004 and September 23, 2004, and Order No. 21395, filed on October 6, 2004.

cannot be reached, the [P]arties would continue with the remaining steps in the regulatory schedule, including the [December 13, 2004] evidentiary hearing and filing of briefs.<sup>2</sup>

HWSC represents that "[t]he Consumer [Advocate] has informed HWSC that it agrees with [this] proposal."<sup>3</sup>

Hawaii Revised Statutes ("HRS") § 269-16(d), governing commission decision-making of public utility rate case applications, states in part:

(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate the commission shall require all parties to a proceeding to comply strictly with procedural time schedules which it establishes. . . .<sup>4</sup>

Presently, the nine (9)-month deadline governing the commission's issuance of its written decision is on or about January 12, 2005. This January 12<sup>th</sup> deadline date is predicated on the Parties' strict compliance with the commission-approved deadline of November 22, 2004 for the Parties to file their settlement agreement, if any, pursuant to Stipulated Prehearing

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<sup>2</sup>HWSC's letter, dated November 22, 2004.

<sup>3</sup>Id.

<sup>4</sup>HRS § 269-16(d), which took effect in April 1976, requires the commission to utilize its best efforts to complete rate proceedings within nine (9) months in order to reduce the effects of regulatory lag. Act 10, 1976 Session Laws of Hawaii. In addition, HRS § 269-16(d) was part of corresponding legislation (Act 165, 1976 Session Laws of Hawaii) that converted the commission to a full-time body, effective from June 1, 1976.

In June 1984, HRS § 269-16(d) was amended by incorporating the ten (10)-month deadline governing the issuance of an interim decision, in the event a final decision was not issued by the nine (9)-month deadline. Act 289, 1984 Session Laws of Hawaii.

Order No. 21072, as amended. HRS § 269-16(d). This November 22<sup>nd</sup> deadline provides the commission with the necessary time and resources to carefully review and consider any settlement agreement presented, in order to meet the applicable deadlines set forth in HRS § 269-16(d); in particular, the nine (9)-month deadline governing the issuance of a final decision, thus rendering moot the issuance of an interim decision.<sup>5</sup>

At this time, however, the Parties' settlement discussions are on-going and not completed. Hence, the Parties seek a fourteen (14)-day extension of time, from November 22, 2004 to December 6, 2004, to file their settlement agreement, if any, with the commission.

The commission finds good cause to approve the Parties' request for a fourteen (14)-day extension of time, until December 6, 2004, to file their settlement agreement, if any, pursuant to Hawaii Administrative Rules ("HAR") § 6-61-23(a) and Sections II and X of Stipulated Prehearing Order No. 21072, as amended. The commission likewise approves the Parties' corresponding request for an identical fourteen (14)-day

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<sup>5</sup>The commission has an independent obligation to review any agreement made between the parties in a rate case, and to arrive at its own conclusions, as part of its statutory mandate to set just and reasonable rates. *In re Hawaiian Elec. Co., Inc.*, 5 Haw. App. 445, 698 P.2d 304 (1985).

extension of time for the commission to comply with the nine (9)-month deadline governing commission action set forth in HRS § 269-16(d).<sup>6</sup>

THE COMMISSION ORDERS:

1. The Parties' request to extend the deadline date, from November 22, 2004 to December 6, 2004, to file their settlement agreement, if any, is approved.

2. The Parties' corresponding request to extend the deadline date, from January 12, 2005 to January 26, 2005, to comply with the nine (9)-month deadline governing commission action set forth in HRS § 269-16(d), is approved.

3. Stipulated Prehearing Order No. 21072, filed on June 23, 2004, as amended, is further amended by this Order. In all other respects, Stipulated Prehearing Order No. 21072, as previously amended and amended herein, remains unchanged.

4. In the event the Parties, by December 6, 2004, do not waive the evidentiary hearing, scheduled for December 13, 2004, the commission will hold a prehearing conference on December 7, 2004, consistent with HAR § 6-61-36, at a time to be announced later.


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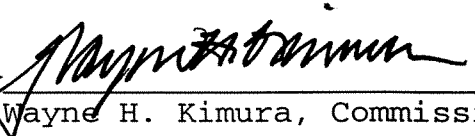
<sup>6</sup>Given the non-compliance with the commission's procedural time schedule, under a strict interpretation of HRS § 269-16(d), the nine (9)-month deadline governing commission action would ordinarily no longer apply.

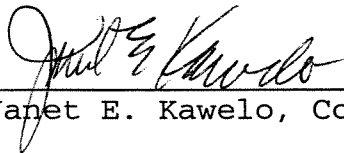
Nonetheless, in this instance, the commission will treat the Parties' request as a corresponding request to extend, from January 12, 2005 to January 26, 2005, the nine (9)-month deadline governing commission action under HRS § 269-16(d). This action is consistent with the Parties' on-going, good-faith efforts to efficiently and cost-effectively resolve their differences, thus enabling the commission to issue timely rate relief in accordance with HRS § 269-16(d)'s underlying intent.

DONE at Honolulu, Hawaii November 26, 2004.

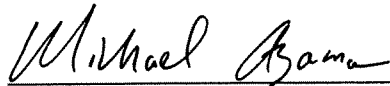
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel

03-0275.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21476 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.


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for Karen Higashi

DATED: November 26, 2004