

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
WAIKOLOA RESORT UTILITIES, INC. dba)
WEST HAWAII UTILITY COMPANY)
)
For the Approval to Enter into)
Financing Arrangements for Tanks)
300-2 and 300-3.)
_____)

DOCKET NO. 04-0341

DECISION AND ORDER NO. 21740

Filed April 14, 2005
At 11 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

2005 APR 18 P 2:34

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

K. Higashi

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Decision and Order No. 21740

By this Decision and Order, the commission approves WAIKOLOA RESORT UTILITIES, INC. dba WEST HAWAII UTILITY COMPANY ("Applicant" or "WHUC")'s request to enter into a \$4,550,000 construction and term loan with HomeStreet Bank, pursuant to Hawaii Revised Statutes ("HRS") § 269-17, and to encumber certain assets associated with the transaction, pursuant to HRS § 269-19 (collectively, "Proposed Financing Arrangements").

On November 24, 2004, Applicant filed an application requesting commission approval of the Proposed Financing Arrangements, described above ("Application"). Applicant served copies of the Application upon the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"). On February 17, 2005, the Consumer Advocate filed

its Statement of Position indicating that it does not object to commission approval of the Proposed Financing Arrangements.

II.

Background

A. Description of Applicant

Applicant is a Hawaii corporation and a public utility that is authorized to provide water (including irrigation water to two golf courses) and wastewater services to the Waikoloa Beach Resort area at Anaehoomalu Bay, Waikoloa, Hawaii.¹

B. Proposed Financing Arrangements

Applicant seeks approval to enter into certain financing arrangements for the purpose of financing the costs for the construction of two (2) 2.5 million gallon potable water storage tanks identified as Tank 300-2 and Tank 300-3 (the "Tanks") for its utility operations. In particular, Applicant seeks approval of the following: (1) A \$4,550,000

¹Applicant received its certificate of public convenience and necessity in February 1980. Decision and Order No. 6078, filed on February 14, 1980, in Docket Nos. 3795 and 3796; see also, Decision and Order No. 16340, filed on May 21, 1998, in Docket No. 98-0090; Decision and Order No. 16372, filed on June 9, 1998, in Docket No. 96-0366 (authorizing WHUC to establish an irrigation water rate for service to two golf courses within the Waikoloa Beach Resort area); and Decision and Order No. 14882, filed on August 14, 1996, in Docket No. 96-0003.

construction and term loan (the "Loan") to Applicant from HomeStreet Bank²; and (2) a grant of first security interest or mortgage over all of Applicant's property and improvements in connection with its construction of the Tanks to secure its obligation under the Loan ("Mortgage").

The purpose of the Loan is to finance Applicant's construction of the Tanks. The Loan proceeds will be used to construct two (2) 2.5 million gallon potable water storage tanks at a total estimated cost of \$4,550,930. Applicant represents that the tanks are needed to meet storage capacity requirements that are expected to reach approximately 4.5 million gallons by 2005 for the Waikoloa Resort complex ("the Resort"). Applicant provided the water consumption information for the ten-month period ending October 2004 which shows that customers in the Resort used 854,245,000 gallons of water during this period, which results in an average of 2.8 million gallons per day. WHUC claims to need a 25 per cent reserve for emergency use, which results in a minimum storage capacity of 3.5 million gallons. The present storage capacity for the Resort is one million gallons.

The proposed \$4,550,000 Loan with HomeStreet Bank will be secured with a first lien over all property and improvements in connection with the construction of the tanks and a first security interest over all easements and easement rights related

²The Loan provides for an initial twelve-month construction loan with interest-only payments to cover the construction period of the Tanks, with a six-month right of extension. Thereafter, the Loan coverts to a ten-year term loan.

to the parcel where the tanks will be located and in connection with the operation of the tanks.

III.

Discussion

A. HRS § 269-17

HRS § 269-17 permits a public utility corporation, with the prior approval of the commission, to issue stocks, bonds, notes, and other evidences of indebtedness (payable at periods of more than 12 months) for the following purposes and no other:

1. For the acquisition of property;
2. For the construction, completion, extension, or improvement of or addition to its facilities or service.
3. For the discharge or lawful refunding of its obligations; or
4. For the reimbursement of moneys actually expended for any of the above purposes.

In this docket, because Applicant represents that the Loan will be payable at periods of more than 12 months, the Proposed Financing Arrangements will be subject to our review under HRS § 269-17. Furthermore, as described in the Application, because the proposed purpose of the Loan is to finance Applicant's construction of two (2) 2.5 million gallon potable water storage tanks, we find such purpose permissible under HRS § 269-17. In addition, as noted by the Consumer Advocate in its Statement of Position, Applicant's debt to equity ratio subsequent to the execution of the proposed \$4.5 million loan is consistent with the capital structures

approved by the Commission for water and wastewater companies. Furthermore, as stated by the Consumer Advocate, it appears that Applicants need additional storage capacity to provide reliable water service to the Resort if the current trend in water use for the Resort continues. Based on Applicant's representations, the commission further finds that Applicant's proposed purpose of the Loan will not have a material adverse effect on its public utility operations.

Based on the foregoing, the commission concludes that Applicant's request to enter into a \$4,550,000 construction and term loan with HomeStreet Bank, should be approved, pursuant to HRS § 269-17.³

B. HRS § 269-19

HRS § 269-19 provides, among other things, that "[n]o public utility corporation shall . . . mortgage, or otherwise dispose of or encumber the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public" without having first secured our approval. Thus, Applicant's proposed Mortgage or encumbrance, as described above and in the Application, triggers HRS § 269-19.

³The commission agrees with the Consumer Advocate that the issue as to whether WHUC should build two (2) tanks at the same time, as well as the reasonableness of the estimated costs of the tanks should be addressed in the rate proceeding wherein Applicant first proposes to include the cost of the tanks in the test year rate base and resulting revenue requirement.

The Consumer Advocate states in its Statement of Position that WHUC has the ability to generate sufficient cash from the regulated operations to meet the debt service obligations and still maintain a positive cash balance at the end of the year. We agree with the Consumer Advocate and find that Applicant's proposed Mortgage or encumbrance to be reasonable and in the public interest. Accordingly, consistent with our approval of Applicant's proposed Loan, we conclude that the proposed grant of a first security interest or Mortgage over all of Applicant's property and improvements in connection with its construction of the Tanks to secure its obligation under the Loan should be approved, pursuant to HRS § 269-19, subject to certain filing requirements, noted below.

IV.

Orders

THE COMMISSION ORDERS:


1. Applicant's request to enter into a \$4,550,000 construction and term loan with HomeStreet Bank, pursuant to HRS § 269-17 and to mortgage or encumber certain assets associated with the Proposed Financing Arrangements, pursuant to HRS § 269-19, is approved.


2. Within sixty (60) days of the closing of the construction and term loan, Applicant shall provide the commission and the Consumer Advocate with fully executed copies of all of the documents executed in connection with the loan.


DONE at Honolulu, Hawaii

APR 14 2005


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

03-0341.eh

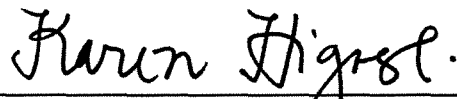
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21740 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
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Karen Higashi

DATED: APR 14 2005