

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PUKALANI STP CO., LTD.)
For Review and Approval of Rate)
Increases and Revised Rate)
Schedules.)

DOCKET NO. 05-0025

ORDER NO. 21771

RECEIVED
2005 APR 25 A 7:55
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed April 22, 2005
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

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PUKALANI STP CO., LTD.)
For Review and Approval of Rate)
Increases and Revised Rate)
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_____)

Docket No. 05-0025
Order No. 21771

ORDER

The commission approves the Proposed Stipulated Procedural Order ("Proposed Order") jointly submitted by PUKALANI STP CO., LTD. ("Pukalani") and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate")(collectively, the "Parties"); provided that Sections IV and VIII of the Stipulated Procedural Order will apply only if a right to a contested case hearing ensues.

On April 14, 2005, the Parties submitted their Proposed Order for commission action, in compliance with Order No. 21706, filed on March 24, 2005. A copy of the Parties' Proposed Order is attached as Exhibit 1 to this Order.

Pukalani is a public utility with annual gross revenues of less than \$2 million. Thus, Hawaii Revised Statutes ("HRS") § 269-16(f), as recently amended by Act 168 of Session Laws of Hawaii 2004 ("Act 168"), applies. Act 168 streamlines the rate review process for small utilities such as Pukalani.

In brief, the commission must make every effort to issue its Proposed Decision and Order within six (6) months from

the filing date of Pukalani's complete Application,¹ "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

As such, the Parties, as part of their Proposed Order, do not anticipate filing any position statements. Instead, following the completion of discovery, the Parties propose to file written testimonies and exhibits by the Consumer Advocate (direct) and Pukalani (rebuttal), respectively.²

At this juncture, there is no right to a contested case hearing under HRS § 269-16(f)(3). Instead, only if one (1) or both Parties object to the Proposed Decision and Order, or if the Parties waive the right to the commission's issuance of a proposed Decision and Order within six (6) months of Pukalani's complete Application, is a contested case hearing contemplated under HRS § 269-16(f).

Under this scenario, therefore, the commission finds that Sections IV (Witnesses) and VIII (Order of Examination) of the Parties' Proposed Order do not presently apply to this phase of the proceeding governing the commission's issuance of its

¹Pukalani's Application, Exhibits PSTP 1 to PSTP 11, Verification, and Certificate of Service, filed on March 1, 2005 (collectively, the "Application").

²The Parties' procedural schedule, as proposed, also does not include the filing of a settlement agreement. Nonetheless, the Parties are not precluded from filing a settlement agreement, if a settlement is reached.


Proposed Decision and Order within the six (6)-month timeframe.³ Accordingly, the commission approves the Proposed Order, subject to the proviso that Sections IV and VIII of the Stipulated Procedural Order will apply only if a right to a contested case hearing ensues.⁴

THE COMMISSION ORDERS that the Parties' Proposed Stipulated Procedural Order, submitted on April 14, 2005 and attached hereto as Exhibit 1, is approved; provided that Sections IV and VIII of the Stipulated Procedural Order will apply only if a right to a contested case hearing ensues.


DONE at Honolulu, Hawaii APR 22 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By 
Janet E. Kawelo, Commissioner



Michael Azama
Commission Counsel
05-0025.eh

³Sections IV and VIII govern the procedures for witness testimony at the contested case hearing. Subject to waiver, a Party that does not accept the commission's Proposed Decision and Order is entitled to a contested case hearing. HRS § 269-16(f)(3). Thus, in the event a contested case hearing is eventually held, Sections IV and VIII will then apply.

⁴The commission's proviso makes it clear that the Parties presently do not have the right to a contested case hearing under HRS § 269-16(f)(3), notwithstanding the language of Sections IV and VIII.

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PUKALANI STP CO., LTD.)	
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For review and approval of rate)	
increases; revised rate schedules.)	
_____)	

STIPULATED PROCEDURAL ORDER NO. _____

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Facsimile: (808) 586-2780

Attorney for
DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	
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STIPULATED PROCEDURAL ORDER

PUKALANI STP CO., LTD. ("Applicant" or "Pukalani") and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (the "Consumer Advocate") hereby stipulate to the following provisions of this Stipulated Procedural Order as mutually acceptable to each.

I.

STATEMENT OF THE ISSUES

The issues in this case are:

1. Is Pukalani's proposed rate increase reasonable?
 - a. Are the proposed tariffs, rates and charges just and reasonable?
 - b. Are the revenue forecasts for Test Year ending December 31, 2005 at present rates and proposed rates reasonable?
 - c. Are the projected operating expenses for Test Year reasonable?

II.

SCHEDULE OF PROCEEDINGS

The parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached hereto as Exhibit "A." Notwithstanding the above, the parties

shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time. However, the intent of the parties in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources. Therefore, any changes to the schedule should be proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

III.

REQUESTS FOR INFORMATION

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. 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. If the parties are unable to agree, the inquiring party may seek approval from the Commission and make a showing of good cause. It is then within the Commission's discretion to allow additional information requests.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g. documents over 50 pages), 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, the party responding to the information request may make the diskette 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 is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part VI, 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.

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

IV.

WITNESSES

Witnesses submitting written testimony and exhibits shall be made available for cross-examination at the hearing, if any. Witnesses should have the work papers used in preparing the evidence they sponsor available at the hearing. Witnesses will not be permitted to read prefiled testimony at the hearings. Witnesses who will present both oral direct and rebuttal testimonies must present said testimonies at the same time.

In the oral presentation of the testimony, each witness may give a brief summary of the testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for both direct and rebuttal testimony and exhibits.

The parties in this case should cooperate to accommodate the schedules of any mainland witnesses and should inform the Commission in advance of any scheduling difficulties

of mainland witnesses. If any party has any objection to scheduling a witness in advance of other witnesses, the party should make a timely objection to the Commission.

V.

FORM OF PREPARED TESTIMONY

All prepared testimony, including text and exhibits, shall be prepared in written form on 8-1/2" x 11" paper with line numbers, and shall be served on the dates designated in the Schedule of Proceedings.

Each party shall be permitted to follow its own numbering system for written testimony and exhibits, provided that the numbering system utilized is consistent and is clearly understandable. Each document of more than one page shall be consecutively numbered. Each party shall prepare a list of its exhibits by exhibit numbers and titles.

The parties shall be permitted to make revisions to exhibits after the designated dates appearing in the Schedule of Proceedings. Revisions shall bear appropriate revision dates. However, revisions or additions that do more than correct typographical errors, update facts, or give numerical comparisons of the positions taken by the parties, shall not be submitted.

Generally, exhibits should include appropriate footnotes or narratives in the exhibits or the related testimony setting forth the sources of the information used and explaining the methods employed in making statistical compilations or estimates.

VI.

MATTERS OF PUBLIC RECORD

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that Pukalani has filed with the Commission, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to 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.

VII.

COPIES OF TESTIMONIES, EXHIBITS AND INFORMATION REQUESTS

1. Testimonies and Exhibits:

Public Utilities Commission 465 South King Street First Floor Honolulu, HI 96813	Original plus 8 copies
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Division of Consumer Advocacy 335 Merchant Street Room 326 Honolulu, HI 96813 E-Mail: <u>Cheryl.S.Kikuta@dcca.hawaii.gov</u> Facsimile Number: 586-2780	3 copies
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------

Kent D. Morihara, Esq. Michael H. Lau, Esq. Ishikawa Morihara Lau & Fong LLP Davies Pacific Center 841 Bishop Street, Suite 400 Honolulu, HI 96813 E-Mail: <u>kmorihara@imlfgroup.com</u> <u>mlau@imlfgroup.com</u> Facsimile Number: 531-8466	3 copies
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Wayne Tanigawa Pukalani STP Co., Ltd. c/o Resort Holdings, LLC 175 Paoakalani Avenue, Suite 300 Honolulu, HI 96815 Facsimile Number: 931-4396	1 copy
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Jon Yamanishi
Pukalani STP Co., Ltd.
c/o Resort Holdings, LLC
175 Paoakalani Avenue, Suite 300
Honolulu, HI 96815
E-Mail: jyamanishi@kghawaii.com
Facsimile Number: 931-4396

1 copy

2. Information Requests and Responses:

Public Utilities Commission
465 South King Street
First Floor
Honolulu, HI 96813

Original plus 8 copies

Division of Consumer Advocacy
335 Merchant Street
Room 326
Honolulu, HI 96813
E-Mail: Cheryl.S.Kikuta@dcca.hawaii.gov
Facsimile Number: 586-2780

3 copies

Kent D. Morihara, Esq.
Michael H. Lau, Esq.
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841 Bishop Street, Suite 400
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mlau@imlfgroup.com
Facsimile Number: 531-8466

3 copies

Wayne Tanigawa
Pukalani STP Co., Ltd.
c/o Resort Holdings, LLC
175 Paoakalani Avenue, Suite 300
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E-Mail: jyamanishi@kghawaii.com
Facsimile Number: 931-4396

1 copy

All pleadings, briefs 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.

VIII.

ORDER OF EXAMINATION

Pursuant to Chapter 61, subchapter 3, section 6-61-31, of the Commission's Rules of Practice and Procedure, Pukalani's witnesses shall open with its direct case. The Consumer Advocate's direct case shall be presented after Pukalani's direct case. Pukalani shall close with its rebuttal case.

Examination of any witness shall be limited to one attorney for a party. The parties shall avoid duplicative or repetitious cross-examination. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Re-cross-examination shall be limited to the extent of material covered in redirect examination unless otherwise permitted by the Commission.

IX.

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 through their own counsel or designated official only as to matters of process and procedure.

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 as provided in Article VII above.

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

X.

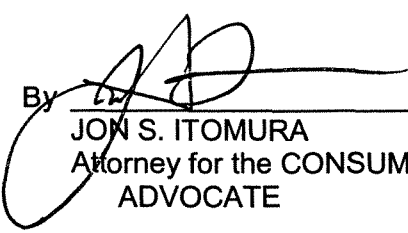
GENERAL

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


Dated: Honolulu, Hawaii, April 14, 2005.

By



JON S. ITOMURA
Attorney for the CONSUMER
ADVOCATE

By



KENT D. MORIHARA
MICHAEL H. LAU
Attorneys for Applicant
PUKALANI STP CO., LTD.

APPROVED AND SO ORDERED this _____ day of _____, 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:

Michael A. Azama
Commission Counsel

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
PUKALANI STP CO., LTD.
Docket No. 05-0025

	DATE	PROCEDURAL STEPS
1.	Tuesday, March 1, 2005	Application Filed at Commission
2.	Wednesday, April 27, 2005	Consumer Advocate Submission of Information Requests (IRs) to Pukalani
3.	Tuesday, May 10, 2005	Public Hearing
4.	Thursday, May 19, 2005	Pukalani Response to Consumer Advocate IRs
5.	Thursday, June 2, 2005	Consumer Advocate Submission of Supplemental IRs to Pukalani
6.	Thursday, June 16, 2005	Pukalani Response to Consumer Advocate Supplemental IRs
7.	Thursday, July 7, 2005	Consumer Advocate Direct Testimony and Exhibits
8.	Monday, July 18, 2005	Pukalani Submission of IRs to Consumer Advocate
9.	Monday, July 25, 2005	Consumer Advocate Response to Pukalani IRs
10.	Monday, August 8, 2005	Pukalani Rebuttal Testimonies
11.	By Thursday, September 1, 2005	Proposed Decision and Order**

* The above schedule assumes that the Commission does not permit a person to intervene. In the event a person is permitted to intervene, a new schedule will be filed with the Commission by all applicable parties either individually or collectively for Commission approval to assist the Commission to complete its deliberations and issue a decision and order in accordance with Hawaii Revised Statutes ("HRS") §269-16(d).

** At this point in the schedule, Pukalani and the Consumer Advocate will notify the Commission whether they object or do not accept all or any part of the proposed decision and order. If any portion of the proposed decision and order is objected to or not accepted by either Pukalani or the Consumer Advocate, an extended schedule (which may or may not include a contested case hearing) will then be filed with the Commission by Pukalani and the Consumer Advocate either individually or together for Commission approval to assist the Commission to complete its deliberations and issue a decision and order in accordance with HRS §269-16(d).

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated Procedural Order No. _____ 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
335 Merchant Street
Room 326
Honolulu, Hawaii 96813

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Honolulu, HI 96815

JON YAMANISHI
Pukalani STP Co., Ltd.
c/o Resort Holdings, LLC
175 Paoakalani Avenue, Suite 300
Honolulu, HI 96815

DATED: _____

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DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

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Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813

Counsel for PUKALANI STP CO., LTD.

WAYNE TANIGAWA
PUKALANI STP CO., LTD.
PRESIDENT, VICE PRESIDENT,
TREASURER & SECRETARY
c/o RESORT HOLDINGS, LLC
175 Paoakalani Avenue, Suite 300
Honolulu, HI 96815

JON YAMANISHI
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Honolulu, HI 96815



Karen Higashi

DATED: APR 22 2005