

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
JAMES RUSSELL BERG and PATRICIA JO)
BERG,)
Complainants,)
vs.)
PRINCEVILLE UTILITIES COMPANY,)
INC.,)
Respondent.)

DOCKET NO. 04-0330

ORDER NO. 22083

RECEIVED

2005 OCT 31 A 8:16

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

Filed Oct. 28, 2005

At 1 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 -----)
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JAMES RUSSELL BERG and PATRICIA JO) Docket No. 04-0330
BERG,) Order No. 22083
Complainants,)
)
vs.)
)
PRINCEVILLE UTILITIES COMPANY,)
INC.,)
Respondent.)
-----)

ORDER

By this Order, the commission approves the Stipulation to Dismiss Formal Complaint with Prejudice ("Stipulation") filed on July 13, 2005 by JAMES RUSSELL BERG and PATRICIA JO BERG ("Complainants") and PRINCEVILLE UTILITIES COMPANY, INC. ("Respondent") (Complainants and Respondent are collectively referred to as the "Parties").

I.

Background

On November 15, 2004, Complainants filed a complaint against Respondent, pursuant to Hawaii Administrative Rules ("HAR") chapter 6-61, subchapter 5.¹ Complainants alleged, among other things, that Respondent violated an agreement dated April 29, 1997 when Respondent transferred a contribution-in-aid-

¹ Complainants' letter dated November 10, 2004 and filed on November 15, 2004 ("Complaint").

of-construction credit / meter fee waiver from Lot 10, Unit A of Anini Vista Estates Subdivision to Lot 5, Unit C.

On December 17, 2004, the commission issued Order No. 21496, requiring Respondent to either: (1) satisfy the matters complained of and file an answer reporting that it has satisfied the matters raised in the Complaint; or (2) file an answer to the Complaint within twenty (20) days of service of Order No. 21496.

On January 10, 2005, Respondent filed a Motion to Dismiss ("Motion to Dismiss"), pursuant to HAR §§ 6-61-41 and 6-61-69 or, in the alternative, an answer to the Complaint in accordance with Order No. 21496, pursuant to HAR § 6-61-68.² Complainants filed their response to Respondent's Motion to Dismiss on January 19, 2005.³ By Order No. 21834 filed on May 20, 2005, the commission denied Respondent's Motion to Dismiss, and ordered the Parties to participate in mediation prior to the commencement of a hearing on the Complaint.

On July 13, 2005, the Parties filed the Stipulation, stating that the Parties "have conducted informal discussions to resolve this matter amicably and have reached an agreement to resolve this matter."⁴ The Complainants agreed to dismiss the

² Motion to Dismiss Formal Complaint or, in the Alternative, [Respondent's] Answer to Formal Complaint; Memorandum in Support of Motion; Exhibit A; Affidavit of Michael Schmidt; and Certificate of Service, filed on January 10, 2005.

³ Complainants' Response to Respondent's Motion to Dismiss and Answer to Formal Complaint and Certificate of Service, filed on January 19, 2005.

⁴ Stipulation, at 2.

Complaint with prejudice, and the Parties agreed that the Stipulation "resolves all claims, damages, and injuries of every kind, known and unknown, now and in the future which the [P]arties may have with respect to the matters raised in the [Complaint]." ⁵

Upon review of the entire record, the commission will:

(1) approve the Parties' agreement to dismiss the Complaint with prejudice, as set forth in the Stipulation filed on July 13, 2005; and (2) close the instant docket.

II.

Orders

THE COMMISSION ORDERS:


1. The Parties' Stipulation filed on July 13, 2005 and the agreement therein to dismiss the Complaint with prejudice, filed on November 15, 2005, is approved.

2. This docket is closed, unless ordered otherwise by the commission.


⁵ Stipulation, at 2.

DONE at Honolulu, Hawaii OCT 28 2005.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

04-0330.eh.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22083 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
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PATRICIA JO BERG
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P. O. Box 223040
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ISHIKAWA MORIHARA LAU & FONG, LLP
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Davies Pacific Center, Suite 400
Honolulu, HI 96813



Karen Higashi

DATED: OCT 28 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22084 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
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Karen Higashi

DATED: OCT 28 2005