In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate Whether
Act 59, Session Laws of Hawaii 1974,
Invalidates, Voids, or Renders Unenforceable
the 1961 Agreement Between the Trustees
Under the Will and of the Estate of Bernice P.
Bishop, Deceased; Kaiser Hawaii Kai
Development Co.; and The City and County of
Honolulu.

STIPULATED PROCEDURAL ORDER NO. 22359

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Attorneys for HAWAII-AMERICAN WATER COMPANY
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION Docket No. 2006-0021

Instituting a Proceeding to Investigate Whether
Act 59, Session Laws of Hawaii 1974,
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Honolulu.

STIPULATED PROCEDURAL ORDER NO. 22359

EXHIBIT “A”

and

CERTIFICATE OF SERVICE

Filed March 29, 2006
At 10:30 o'clock A.m.

Karen Higbee
Chief Clerk of the Commission
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Docket No. 2006-0021

Instituting a Proceeding to Investigate Whether
Act 59, Session Laws of Hawaii 1974,
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Bishop, Deceased; Kaiser Hawaii Kai
Development Co.; and The City and County of
Honolulu.

STIPULATED PROCEDURAL ORDER

HAWAII-AMERICAN WATER COMPANY (“HAWC”), the DIVISION OF
CONSUMER ADVOCACY OF THE DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS (the “Consumer Advocate”), the CITY AND COUNTY OF
HONOLULU (the “City”), and the STATE OF HAWAII (the “State”), by and through their
respective attorneys and pursuant to Order No. 22254, filed on February 1, 2006
(“Order No. 22254”), do hereby stipulate to the following provisions of this Stipulated
Procedural Order as mutually acceptable to each.

ACCORDINGLY, IT IS ORDERED that the following Statement of Issues,
Schedule of Proceedings, and procedures shall be utilized in this docket.

1 Order No. 22254, among other things, initiated an investigative proceeding to examine whether Act 59,
Session Laws of Hawaii 1974 (“1974 Amendment”), invalidates, voids, or renders unenforceable the
1961 Agreement Between the Trustees Under the Will and of the Estate of Bernice P. Bishop,
Deceased; Kaiser Hawaii Kai Development Co.; and The City and County of Honolulu ("1961
Agreement") and required the parties to develop a stipulated procedural order to govern the matters of
this investigation for the Hawaii Public Utilities Commission’s (“Commission”) review and approval
within forty-five (45) days of the date of Order No. 22254.
I.

STATEMENT OF THE ISSUES

The issues in this case are:

1. Whether the rates established by the 1961 Agreement are enforceable to the extent they conflict with HAWC's tariff?
   a. Whether the 1974 Amendment invalidates, voids, or renders unenforceable the 1961 Agreement?\(^2\)
   b. What are the public interest considerations related to the resolution of whether the 1974 Amendment invalidates, voids, or renders unenforceable the 1961 Agreement?

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.

\(^2\) As stated in the HAWC's Supplemental Status Report, filed on February 28, 2006, the following two (2) subsequent agreements relate to or rely upon the 1961 Agreement: (1) Agreement Dated October 4, 1965 Between the Trustees Under the Will and of the Estate of Bernice P. Bishop, Deceased; Kaiser Hawaii Kai Development Co.; and The City and County of Honolulu ("City") ("1965 Agreement"); and (2) Agreement Dated December 4, 1969 Between the Trustees Under the Will of the Estate of William Charles Lunalilo, Deceased; and Hawaii-Kai Community Services Co. ("1969 Agreement"). For purposes of this proceeding, the 1961 Agreement, the 1965 Agreement and the 1969 Agreement will collectively be referred to as "the 1961 Agreement."
III.

MATTERS OF PUBLIC RECORD

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that HAWC 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.

IV.

COPIES OF PLEADINGS, BRIEFS AND OTHER DOCUMENTS

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

Original plus 8 copies

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335 Merchant Street
Room 326
Honolulu, HI 96813

Facsimile Number: 586-2780

2 copies
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Facsimile Number: 523-4583
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 Hawaii Administrative Rules ("HAR") § 6-61-15.

V.

COMMUNICATIONS

HAR § 6-61-29 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 IV above.

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

VI.

GENERAL

The foregoing procedures shall be applied in a manner consistent with the
orderly conduct of this docket.

Pursuant to HAR § 6-61-37, this Stipulated Procedural Order shall control the
subsequent courses of the proceedings, unless modified by the parties in writing or to
prevent manifest injustice. This Stipulated Procedural Order may be executed by the parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The parties may execute this Stipulated Procedural Order by facsimile or electronic mail for initial submission to the Commission to be followed by the filing of originals of said facsimile or electronic mail pages.


JON S. ITOMURA  
Attorney for Division of Consumer Advocacy, Department of Commerce and Consumer Affairs

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MICHAEL H. LAU  
--and--  
STEVEN K. S. CHUNG  
LAUREN A. STERN  
Attorneys for Applicant  
Hawaii-American Water Company

Docket No. 2006-0021: STIPULATED PROCEDURAL ORDER
APPROVED AND SO ORDERED AT HONOLULU, HAWAII, THIS 29th day of March, 2006.

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:

Ji Sook Kim
Commission Counsel
## EXHIBIT “A”
### STIPULATED REGULATORY SCHEDULE
**Docket No. 2006-0021**

<table>
<thead>
<tr>
<th>DATE</th>
<th>PROCEDURAL STEPS</th>
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<tbody>
<tr>
<td>1. Wednesday, February 1, 2006</td>
<td>Order No. 22254 issued initiating investigation</td>
</tr>
<tr>
<td>2. Friday, March 31, 2006</td>
<td>HAWC's notice of submission of exhibits, if any</td>
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<tr>
<td>3. Monday, April 7, 2006</td>
<td>HAWC Position Statement</td>
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<tr>
<td>4. Monday, May 1, 2006</td>
<td>Responsive Position Statements of all other parties</td>
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<tr>
<td>5. Monday, May 15, 2006</td>
<td>HAWC Reply to Position Statements of all other parties</td>
</tr>
<tr>
<td>6.</td>
<td>Decision and Order</td>
</tr>
</tbody>
</table>

1 Although the Consumer Advocate is, ex officio, a party to this proceeding, pursuant to Hawaii Administrative Rules § 6-61-62, it may elect not to submit a Position Statement similar to the other remaining parties who are directly affected by the 1961 Agreement. In that connection, the parties agree to allow the Consumer Advocate to issue information requests, if deemed necessary, on any party during the period subsequent to the filing of HAWC’s Position Statement and the Responsive Position Statements of all other parties (i.e., between April 7, 2006 and May 1, 2006).

2 The parties reserve their right to, collectively or individually, engage in settlement discussions at any time on any and/or all disputed issues that may exist between any of the parties’ respective positions in the subject docket. In the event a settlement is reached by all or any of the parties, the respective parties will notify the Commission and any other parties accordingly and make such changes to the remaining procedural steps as may be applicable or prudent under the circumstances.
CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were duly served on the following parties, by having said copies delivered as set forth below:

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DATED: MAR 29 2006

[Signature]
Chief Clerk