

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MANELE WATER RESOURCES, LLC)
For a Certificate of Public)
Convenience and Necessity Pursuant)
to Section 269-7.5 to Provide)
Sewer Service in Manele-Hulopoe,)
Lana'i; and for Approval of Rules,)
Regulations, and Rates.)

DOCKET NO. 2006-0166

ORDER NO. 23126

RECEIVED
2006 DEC 13 A 8:46
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Dec. 11, 2006
At 8 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

K. Higashi

In the Matter of the Application of)
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By this order, the commission approves the Stipulated Procedural Schedule filed by MANELE WATER RESOURCES, LLC and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY (jointly, the "Parties") on November 27, 2006, which is attached hereto as Exhibit A, with one modification. Under Section II, Schedule of Proceedings, of the Parties' Stipulated Procedural Schedule, the commission adds the following deadline: **Parties to file a joint settlement letter, if any, with the commission - January 24, 2007.**

1. The Parties' Stipulated Procedural Schedule, attached as Exhibit A, is approved, with the additional deadline that, if the Parties reach a settlement with respect to any of the substantive issues in this docket, a joint settlement letter executed by all Parties to the settlement must be filed with the commission by no later than January 24, 2007.

2. In all other respects, the deadlines set forth in the attached Stipulated Procedural Schedule shall be utilized in this docket, unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii DEC 11 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Kaiulani Kidani Shinsato
Kaiulani Kidani Shinsato
Commission Counsel

2006-0166.sl

BEFORE THE PUBLIC UTILITIES COMMISSION
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In the Matter of the Application of)

MANELE WATER RESOURCES, LLC)

For a Certificate of Public Convenience and)
Necessity Pursuant to Section 269-7.5 to)
Provide Service in Manele-Hulopoe, Lana'i;)
and for Approval of Rules, Regulations, and)
Rates.)

DOCKET NO. 2006-0166

STIPULATED PROCEDURAL ORDER

and

CERTIFICATE OF SERVICE

Filed _____, 2006

At _____ o'clock ____m.

Chief Clerk of the Commission

PUBLIC UTILITIES
COMMISSION

2006 NOV 27 P 3:44

FILED

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In the Matter of the Application of)

MANELE WATER RESOURCES, LLC)

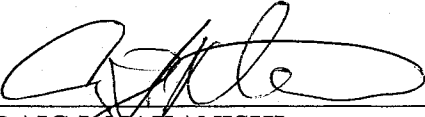
) DOCKET NO. 2006-0166


)
)
) For a Certificate of Public Convenience and
) Necessity Pursuant to Section 269-7.5 to
) Provide Service in Manele-Hulopoe, Lana'i;
) and for Approval of Rules, Regulations, and
) Rates.)

STIPULATED PROCEDURAL ORDER

Applicant Manele Water Resources, LLC and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs hereby stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, November 27, 2006.


CRAIG I. NAKANISHI
SHAH J. BENTO
Attorneys for
Manele Water Resources, LLC


JON S. ITOMURA
LANE TSUCHIYAMA
Attorneys for the
Division of Consumer Advocacy
Department of Commerce and Consumer Affairs

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and for Approval of Rules, Regulations, and)	
<u>Rates.</u>)	

STIPULATED PROCEDURAL ORDER

On June 28, 2006, Manele Water Resources LLC ("Applicant" or "MWR") filed an application pursuant to Hawaii Revised Statutes ("HRS") § 269-7.5 & -16 requesting Public Utilities Commission of the State of Hawaii ("Commission") approval of, among other things, a Certificate of Public Convenience and Necessity ("CPCN") and rules, regulations, and rates to provide sewer service in Manele-Hulopoe, Lana'i.

On August 1, 2006, the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate") filed a Statement of position Regarding Completeness of Application ("Statement of Position") objecting to the application and recommending that Applicant address certain issues.

By letter dated August 4, 2006, the parties informed the Commission that they had discussed the issues raised in the Consumer Advocate's Statement of Position and resolved them.

On August 7, 2006, Applicant supplemented its application to address the issues raised in

the Consumer Advocate's Statement of Position and requesting a waiver of the requirements to file audited financial information under Hawaii Administrative Rules, ("HAR") §§ 6-61-75(b)(1) and 6-61-75(b)(2), and to state the total increase in its proposed rates as a percent under HAR § 6-61-88(2).

On August 9, 2006, the Consumer Advocate filed a supplemental Statement of Position Regarding the Completeness of the Application stating that the issues raised had been addressed and that it did not oppose the waiver requests made by Applicant.

On September 15, 2006, the Commission filed Order No. 22859, granting Applicant's waiver requests, and setting the filing date of Applicant's completed application, as supplemented, as of August 7, 2006.

On September 29, 2006, the Commission held a public hearing on the application, as supplemented, in Lana'i City, Hawaii.

On October 27, 2006, the Commission filed Order No. 22984, ordering the parties to submit a stipulated procedural schedule incorporating their agreed upon schedule with respect to this proceeding based upon the Commission completing its deliberations by February 7, 2007 and, to this end, specifying that the deadline for Applicant to submit Rebuttal Testimony or a Statement of Position, if any, must be no later than January 17, 2007.

Applicant and the Consumer Advocate have reached agreement on the prehearing matters and submitted a Stipulated Prehearing Order acceptable to both parties.

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

I. STATEMENT OF THE ISSUES

The issues in this case are:

1. Is MWR fit, willing, and able to properly perform the wastewater service proposed in the application, as supplemented, and to conform to the terms, conditions and rules adopted by the Commission regarding said service?
2. Is the proposed service set forth in the application, as supplemented, required, or will said service be required by the present or future public convenience and necessity?
3. Are MWR's proposed rates, charges, and tariff rules and regulations for the proposed service in the application, as supplemented, just and reasonable?
 - a. Are the revenue forecasts for the test year July 1, 2006 to June 30, 2007, for the proposed rates reasonable?
 - b. Are the projected operating expenses for the test year July 1, 2006 to June 30, 2007, reasonable?
4. If the Commission approves the Application:
 - a. pursuant to HRS section 269-19, whether the transfer of the sewer Facility and related plant and equipment from Castle & Cooke Resorts, LLC to Applicant is reasonable and should be approved; and
 - b. if applicable, pursuant to HRS section 269-19.5(c), whether Applicant's request to obtain easements and licenses to use the real property of its affiliates to provide utility services should be approved.

5. Whether the Applicant's request to use its own chart of accounts should be approved.

II. SCHEDULE OF PROCEEDINGS

MWR application for rate increase approval	June 28, 2006
Date of completed application, as supplemented	August 7, 2006
CA 1 st Submission of Information Requests ("1 st IRs")	October 27, 2006
MWR Responses to 1 st IRs ¹	Friday, November 17, 2006
CA 2 nd Submission of IRs ("2 nd IRs"), if necessary	Monday, December 11, 2006
MWR Responses to 2 nd IRs	Wednesday, December 27, 2006
CA Statement of Position ("SOP")	Thursday, January 11, 2007
MWR Reply SOP, if necessary *	Wednesday, January 17, 2007

* If the CA objects to approval of the application, as supplemented. or requests that approval subject to conditions.

If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation and the parties do not waive the right to a hearing, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If MWR determines that a Reply SOP is unnecessary, MWR and the Consumer Advocate will notify the Commission that the proceeding is ready for decision making.

¹ Whenever possible, parties will provide a copy of documents on diskette upon request.

**III. MISCELLANEOUS MATTERS TO FACILITATE AND
EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS**

A. Requests for Information

To the extent practical, MWR and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests ("IR") and responses informally to attempt to work out problems with respect to understanding the scope and meaning of information requests, or with respect to the availability of information. 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.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (documents consisting of 100 pages or more), 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 or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium, with all formula and cell references intact, available to the other party and the Commission.

A party shall not be required, in response to an information request, to provide data that are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, *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 governing this docket.

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

B. Matters of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that MWR has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to water 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 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.

C. Copies of Filings and Information Requests

1. Filings:

Commission Original + 8 copies
MWR 2 copies
Consumer Advocate 3 copies

2. Information Requests and Responses:

Commission Original + 8 copies
MWR 2 copies
Consumer Advocate 3 copies

3. All pleadings, and other documents required to be filed with the Commission shall be filed within the time limits prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

4. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or via facsimile. In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via diskette or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if work papers, documentation,

or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such work papers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or via facsimile as provided in Parts II.C.1 and II.C.2 above.

D. 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 on matters of practice and procedure through their own counsel or designated official.

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

E. General

These procedures are consistent with the orderly conduct of this docket. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

DONE at Honolulu, Hawaii, this ____ day of _____ 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
John E. Cole, Commissioner

APPROVED AS TO FORM:

Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Procedural Order No.

_____, upon the following party (parties) by hand delivery or by
mail, postage prepaid and properly addressed.

CLIFFORD JAMILE
DIRECTOR OF UTILITIES
MANELE WATER RESOURCES, LLC
100 Kahelu Avenue
Mililani, Hawaii 96789

CRAIG I. NAKANISHI, ESQ.
SHAH J. BENTO, ESQ.
RUSH MOORE LLP
A Limited Liability Law Partnership
737 Bishop Street, Suite 2400
Honolulu, Hawaii 96813

DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P.O. Box 541
Honolulu, Hawaii 96809

Dated: _____, 2006

Chief Clerk

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23126 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
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Karen Higashi

DATED: DEC 11 2006