

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
MAKENA WASTEWATER CORP.)
)
For a Declaratory Ruling Regarding)
Hawaii Revised Statutes Chapter 269)
Regarding Approval of Proposed)
Transaction.)
_____)

DOCKET NO. 2007-0073

ORDER NO. 23352

Filed April 11, 2007
At 1:30 o'clock P.M.

Broderick K. Kane
for Chief Clerk of the Commission

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

2007 APR 12 A 8:45

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

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
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 For a Declaratory Ruling Regarding)
 Hawaii Revised Statutes Chapter 269)
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Docket No. 2007-0073

Order No. 23352

ORDER

By this Order, the commission instructs the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), to file its position statement by April 23, 2007, stating whether it intends to participate in this proceeding, and if so, its position on the relief requested.¹

I.

Request for Declaratory Relief

MWC is a public utility authorized to provide wastewater treatment services within a portion of a master-planned real estate development project in the Makena area on the

¹The Parties in this declaratory action are Petitioner MAKENA WASTEWATER CORP. ("MWC") and the Consumer Advocate, an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

island of Maui.² By its petition, filed on March 20, 2007, MWC requests a declaratory ruling that the sale of one-hundred percent (100%) of MWC's outstanding common stock by its parent company, Moani Corp., to Meheu, LLC, pursuant to a Stock Purchase Agreement, dated January 25, 2007, does not require the commission's approval under HRS chapter 269.³ Specifically, MWC seeks a declaratory ruling that HRS §§ 269-7, 269-17, 269-18, and 269-19 do not apply to the subject transaction, and that the subject transaction is exempt from HRS § 269-17.5.

HAR chapter 61, subchapter 16, governs declaratory orders issued by the commission. In general, HAR § 6-61-162(a) provides that within forty-five days after the submission of a petition for declaratory ruling, the commission shall deny the petition, issue a declaratory order on the matters contained in the petition, or set the matter for a hearing. Accordingly, the deadline for commission action on MWC's petition for declaratory relief is on or about May 4, 2007.

Given the forty-five day deadline governing commission action in this proceeding, the commission finds it prudent at this juncture to instruct the Consumer Advocate to file its position statement by April 23, 2007, stating whether it intends

²See In re Makena Wastewater Corp., Docket No. 02-0133, Decision and Order No. 21352, filed on September 16, 2004 (issuance of a certificate of public convenience and necessity to MWC).

³MWC's Petition for Declaratory Ruling; Verification; Exhibits A to D; and Certificate of Service, filed on March 20, 2007. MWC served copies of its petition for declaratory ruling upon the Consumer Advocate.

to participate in this proceeding, and if so, its position on the relief requested.

II.

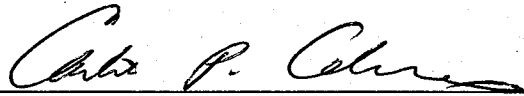
Order

THE COMMISSION ORDERS:

The Consumer Advocate shall file its position statement by April 23, 2007, stating whether it intends to participate in this proceeding, and if so, its position on the relief requested.


DONE at Honolulu, Hawaii APR 11 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

2007-0073.eh

CERTIFICATE OF SERVICE

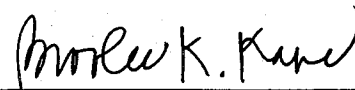
I hereby certify that I have this date served a copy of the foregoing Order No. 23352 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

JOHN OKA
VICE PRESIDENT/OPERATIONS
MAKENA WASTEWATER CORP.
5415 Makena Alanui
Kihei, HI 96753

CLIFFORD K. HIGA, ESQ.
BRUCE NAKAMURA, ESQ.
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Honolulu, HI 96813

Counsel for MAKENA WASTEWATER CORP.



for Karen Higashi

DATED: APR 11 2007