

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
MOLOAA WATER DISTRIBUTION)
COMPANY, LLC)
For a Declaratory Ruling.)
_____)

DOCKET NO. 2007-0181

ORDER NO. 23609

Filed August 16, 2007
At 11 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

2007 AUG 20 A 9:04

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

Karen Higashi

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OF THE STATE OF HAWAII

In the Matter of the Petition of)
MOLOAA WATER DISTRIBUTION)
COMPANY, LLC)
For a Declaratory Ruling.)

Docket No. 2007-0181
Order No. 23609

ORDER

By this Order, the commission approves the Parties' voluntary and intentional waiver of issuance of the commission's declaratory ruling by August 16, 2007, and their corresponding agreement to extend by one-month, until September 17, 2007, the deadline date for the commission to issue its declaratory ruling in this proceeding.¹

I.

Background

Petitioner is a newly-formed Hawaii limited liability company whose sole member is Mr. Jeff Lindner. On July 3, 2007, Petitioner filed a Petition for Declaratory Ruling, pursuant to

¹The Parties in this proceeding are MOLOAA WATER DISTRIBUTION COMPANY, LLC ("Petitioner") and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

HAR chapter 6-61, subchapter 16.² On July 23, 2007, the commission issued information requests to Petitioner, to which Petitioner responded on August 7, 2007.

By letter dated August 9, 2007, Petitioner informed the commission of the Parties' agreement to extend by one-month, until September 17, 2007, the deadline date for the commission to issue its declaratory ruling in this proceeding. According to Petitioner, the agreement to extend the deadline is "to ensure that the record is complete and to provide the [c]ommission additional time to review recently filed and soon-to-be-filed submissions by the Parties in this proceeding."³

II.

Discussion

HAR chapter 6-61, 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

²Petition for Declaratory Ruling; Verification; and Certificate of Service, filed on July 3, 2007 (collectively, "Petition"). Petitioner served copies of its Petition upon the Consumer Advocate.

³Petitioner's letter, dated August 9, 2007, at 1. According to Petitioner, the Consumer Advocate intends to submit its statement of position on or before August 16, 2007.

deadline for commission action on the Petition is on or about August 16, 2007.⁴

The Parties, however, have agreed to extend by one-month, until September 17, 2007, the deadline for the commission to issue its declaratory ruling. By way of explanation, the Parties state that the additional time will provide: (1) the commission and the Consumer Advocate with the opportunity to review Petitioner's responses, filed on August 7, 2007; and (2) the Consumer Advocate with sufficient time to prepare and file its position statement, on or before August 16, 2007.⁵

Here, the commission will treat the Parties' agreement as an intentional and voluntary waiver of the forty-five day deadline set forth in HAR § 6-61-162(a), governing timely commission action in this proceeding. The commission approves the Parties' voluntary and intentional waiver of issuance of the commission's declaratory ruling by August 16, 2007,⁶ and their corresponding agreement to extend by one-month, until September 17, 2007, the deadline date for the commission to issue its declaratory ruling in this proceeding.

⁴Because the 45th day falls on Friday, August 17, 2007, a State of Hawaii ("State") holiday, see HRS § 8-1 (designated State holidays), the deadline for timely commission action pursuant to HAR § 6-61-162(a) is, in effect, Thursday, August 16, 2007.

⁵See Petitioner's letter, dated August 9, 2007, at 1 n.2.

⁶Cf. In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 2006-0409, Order No. 23551, filed on July 18, 2007 (approving the parties' intentional and voluntary waiver of issuance of the commission's final decision within nine months from the filing date of the public utility's completed application for a general rate increase).

III.

Orders

THE COMMISSION ORDERS:

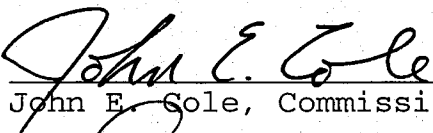
1. The Parties' voluntary and intentional waiver of issuance of the commission's declaratory ruling by August 16, 2007, is approved.

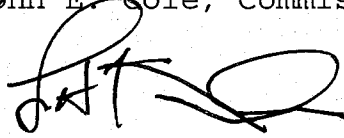
2. The Parties' corresponding agreement to extend by one-month, until September 17, 2007, the deadline date for the commission to issue its declaratory ruling in this proceeding, is approved.

DONE at Honolulu, Hawaii AUG 16 2007.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

2007-0181.sl

CERTIFICATE OF SERVICE

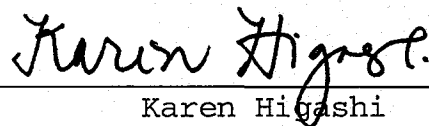
I hereby certify that I have this date served a copy of the foregoing Order No. 23609 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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

MOLOAA WATER DISTRIBUTION COMPANY, LLC
P. O. Box 340
Anahola, HI 96703
Attention: JEFF LINDNER

MICHAEL H. LAU, ESQ.
KENT D. MORIHARA, ESQ.
KRIS N. NAKAGAWA, ESQ.
RHONDA L. CHING, ESQ.
MORIHARA LAU & FONG LLP
841 Bishop Street, Suite 400
Honolulu, HI 96813

Counsel for MOLOAA WATER DISTRIBUTION COMPANY, LLC



Karen Higashi

DATED: AUG 16 2007