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.)
)

ORDER NO. 23609

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

Karen Higashl
Chief Clerk of the Commission

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

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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).

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."

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

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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

John E. Cole, Commissioner

Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Michael Azama
Commission Counsel
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
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Honolulu, HI 96809

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DATED: AUG 16 2007

Karen Hitashi