

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

KUKIO UTILITY COMPANY, LLC.)

DOCKET NO. 2007-0198

For Approval of a Rate Increase)
Pursuant to Hawaii Revised)
Statutes § 269-16; and Revised)
Rate Schedules.)

ORDER NO. 23927

Filed Dec. 24, 2007

At 10 o'clock A. M.

Karen Higashi.
Chief Clerk of the Commission

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

2007 DEC 26 A 9:13

RECEIVED

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

Karen Higashi.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
KUKIO UTILITY COMPANY, LLC)
For Approval of a Rate Increase)
Pursuant to Hawaii Revised)
Statutes § 269-16; and Revised)
Rate Schedules.)
_____)

Docket No. 2007-0198
Order No. 23927

ORDER

By this Order, the commission approves with modifications the proposed Stipulated Procedural Order submitted by KUKIO UTILITY COMPANY, LLC ("Kukio")¹ and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate")² on November 20, 2007.

¹Kukio is a public utility that provides water and wastewater utility services, including the gathering, storage, transmission, distribution, processing, and other provision and elimination of water, within its authorized service area on the island of Hawaii. Kukio was granted a certificate of public convenience and necessity in Decision and Order No. 20103, filed on March 23, 2003, as amended by Order No. 20688, filed on November 26, 2003, in Docket No. 01-0433.

²The Consumer Advocate is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. Kukio and the Consumer Advocate, the sole parties to this proceeding, are hereafter referred to as the "Parties."

I.

Background

On July 20, 2007, Kukio filed an Application³ requesting approval of rate increases and revised rate schedules and rules. Specifically, for its water operations, Kukio requests commission approval of a general rate increase of approximately \$238,603, or an approximate 11.0% increase from the pro forma revenue amount of \$2,170,266 at present rates for the 2008 calendar test year. Regarding its wastewater operations, Kukio requests commission approval of a general rate increase of approximately \$65,888, or an approximate 7.6% increase, from the pro forma revenue amount of \$863,122 at present rates for the 2008 calendar test year. In addition, Kukio seeks approval to establish a Power Cost Adjustment Factor ("PCAF") for its water service to allow it to increase or decrease its rates based on any corresponding increase or decrease in its cost for electricity, and to revise the existing PCAF formula pertaining to its sewer service.

By Order No. 23716, issued by the commission on October 12, 2007, the commission acknowledged that the filing date of Kukio's complete Application is July 20, 2007, and directed the Parties to submit to the commission a proposed stipulated procedural order within thirty days from the date of that order.

³Application for Approval of Rate Increases and Revised Rate Schedules and accompanying exhibits; Verification, and Certificate of Service, filed on July 20, 2007 (collectively, "Application").

Under Order No. 23716, the deadline for the Parties to timely file their proposed stipulated procedural order was November 13, 2007. However, the Parties filed the proposed stipulated document on November 20, 2007; thus, the Parties' proposed Stipulated Procedural Order was not timely.

The Parties have not moved for an enlargement of time claiming excusable neglect under HAR § 6-61-23(a)(2).⁴ Nonetheless, the commission finds that the issuance of a procedural order in this docket will aid in the "just, speedy, and inexpensive determination of [this] proceeding[.]" consistent with HAR § 6-61-1. Thus, in this instance, the commission will approve the Parties' proposed Stipulated Procedural Order to govern the proceedings in this docket, with the modifications noted in the section below.

⁴HAR § 6-61-23(a)(2) states in pertinent part:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

.

- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect[.]

HAR § 6-61-23(a)(2).

II.

Stipulated Procedural Order (as Modified)

In Order No. 23716, the commission explicitly stated:

Given the six-month deadline [in HRS § 269-16(f)(3)] governing the commission's issuance of its Proposed Decision and Order, the Parties shall: (1) initiate the discovery process forthwith; and (2) submit a stipulated procedural schedule setting forth the issues, procedural schedule, and procedures to govern Kukio's Application, within thirty (30) days from the date of this Order. **The stipulated procedural schedule to be submitted by the Parties shall, at a minimum, provide that:** (1) Kukio's rebuttal testimony (or rebuttal statement of position), if any, be filed by December 28, 2007; and (2) **the Parties' joint settlement agreement, if any, be filed by January 4, 2008, in order for the commission to reasonably meet the six-month deadline of January 18, 2008.** If the Parties are unable to agree on a procedural schedule, as prescribed, the commission will issue its own procedural order in accordance with HRS § 269-16(f)(3).

See Order No. 23716, filed on October 12, 2007, in this docket, at 6; and Ordering Paragraphs 3-4 (footnote omitted and emphasis added).

In sum, the commission directed the Parties in Order No. 23716 to submit a stipulated procedural schedule that provides, "at minimum," for "the Parties' joint settlement agreement, if any, [to] be filed by January 4, 2008, in order for the commission to reasonably meet the six-month deadline of January 18, 2008. The Parties' Stipulated Procedural Order, however, sets January 11, 2008, as the deadline for the Parties to file a joint settlement agreement, if any. Consistent with Order No. 23716, the commission amends the Parties' proposed

Stipulated Procedural Order, Exhibit "A" Stipulated Regulatory Schedule, to comply with Order No. 23716 and sets a deadline of January 4, 2008, for the Parties to submit their settlement agreement (if any).

The proposed Stipulated Regulatory Schedule is amended as follows:⁵

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
KUKIO UTILITY COMPANY, LLC ("KUC")
Docket No. 2007-0198

DATE	PROCEDURAL STEPS
.	
9. Friday, January [11] <u>4</u> , 2008	Settlement Agreement (if any)
10. Friday, January 18, 2008	Proposed Decision and Order

III.

Orders

THE COMMISSION ORDERS:

1. The Parties' proposed Stipulated Procedural Order submitted on November 20, 2007, attached as Exhibit 1 to this Order, is approved as modified herein to govern the proceedings in this docket.

⁵Deletions are bracketed, additions are underscored.

2. Exhibit A, Stipulated Regulatory Schedule, of the Parties' proposed Stipulated Procedural Order is modified to read as follows:

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
KUKIO UTILITY COMPANY, LLC ("KUC")
Docket No. 2007-0198

DATE	PROCEDURAL STEPS
.	
9. Friday, January [11]4, 2008	Settlement Agreement (if any)
10. Friday, January 18, 2008	Proposed Decision and Order

DONE at Honolulu, Hawaii DEC 24 2007.

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:

Jodi K. Vi
Jodi K. Vi
Commission Counsel

Leslie H. Kondo
By Leslie H. Kondo
Leslie H. Kondo, Commissioner

2007-0198.laa

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	
)	
of)	Docket No. 2007-0198
)	
KUKIO UTILITY COMPANY, LLC)	
)	
For review and approval of rate)	
increases; revised rate schedules.)	
_____)	

STIPULATED PROCEDURAL ORDER NO. _____

EXHIBIT A

and

CERTIFICATE OF SERVICE

Filed _____, 2007

At _____ o'clock _____.m.

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application)	
)	
of)	Docket No. 2007-0198
)	
KUKIO UTILITY COMPANY, LLC)	
)	
For review and approval of rate)	
increases; revised rate schedules.)	
_____)	

STIPULATION FOR PROCEDURAL ORDER

KUKIO UTILITY COMPANY, LLC ("KUC"), a Delaware limited liability company, and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (the "Consumer Advocate") (KUC and the Consumer Advocate together referred to as "parties"), by and through their respective attorneys, 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:

I.

STATEMENT OF ISSUES

The issues in this case are:

1. Is KUC's proposed rate increase reasonable?
 - a. Are the proposed tariffs, rates and charges just and reasonable?
 - b. Are the revenue forecasts for Test Year ending December 31, 2008 ("Test Year") at present rates and proposed rates reasonable?

- c. Are the projected operating expenses for the Test Year reasonable?
- d. Is the projected rate base for the Test Year reasonable, and are the properties included in the rate base used or useful for public utility purposes?
- e. Is the rate of return requested fair?

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 may amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time; provided that the requesting party or parties receive the Commission's approval in accordance with Hawaii Administrative Rules ("HAR") § 6-61-23, to the extent applicable. 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.

III.

REQUESTS FOR INFORMATION

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. 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. If the parties are unable to agree, the inquiring party may seek approval from the Commission and make a showing of good cause. It is then within the Commission's discretion to allow additional information requests.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g. documents over 50 pages), 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 compact disc, the party responding to the information request may make the diskette or compact disc available to the other party and the Commission. A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part V, 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 the 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.

The responses of each party to information requests shall adhere to a uniform system of numbering agreed upon by the parties. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1," and a response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document, indicating the name of the respondent for each response.

IV.

FORM OF PREPARED TESTIMONY

All prepared testimony, including text and exhibits, shall be prepared in written form on 8-1/2" x 11" paper with line numbers, and shall be served on the dates designated in the Schedule of Proceedings.

Each party shall be permitted to follow its own numbering system for written testimony and exhibits, provided that the numbering system utilized is consistent and is clearly understandable. Each document of more than one page shall be consecutively numbered. Each party shall prepare a list of its exhibits by exhibit numbers and titles.

The parties shall be permitted to make revisions to exhibits after the designated dates appearing in the Schedule of Proceedings. Revisions shall bear appropriate revision dates. However, revisions or additions that do more than correct typographical errors, update facts, or give numerical comparisons of the positions taken by the parties, shall not be submitted.

Generally, exhibits should include appropriate footnotes or narratives in the exhibits or the related testimony setting forth the sources of the information used and explaining the methods employed in making statistical compilations or estimates.

V.

MATTERS OF PUBLIC RECORD

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

VI.

COPIES OF TESTIMONIES, EXHIBITS AND INFORMATION REQUESTS

1. Testimonies and Exhibits:

Public Utilities Commission 465 South King Street First Floor Honolulu, HI 96813	Original plus 8 copies
---	------------------------

Division of Consumer Advocacy 335 Merchant Street Room 326 Honolulu, HI 96813 Facsimile Number: 586-2780	3 copies
--	----------

Kent D. Morihara, Esq. Michael H. Lau, Esq. Kris N. Nakagawa, Esq. Rhonda L. Ching, Esq. Morihara Lau & Fong LLP Davies Pacific Center 841 Bishop Street, Suite 400 Honolulu, HI 96813 Facsimile Number: 566-0800	1 copy
---	--------

Mr. Kevin Hinkle
c/o Kukio Utility Company, LLC
P.O. Box 5349
Kailua-Kona, Hawaii 96745-5349
Facsimile Number: 325-9784

1 copy

2. Information Requests and Responses:

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

Original plus 8 copies

Division of Consumer Advocacy
335 Merchant Street
Room 326
Honolulu, HI 96813
Facsimile Number: 586-2780

3 copies

Kent D. Morihara, Esq.
Michael H. Lau, Esq.
Kris N. Nakagawa, Esq.
Rhonda L. Ching, Esq.
Morihara Lau & Fong LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813
Facsimile Number: 566-0800

1 copy

Mr. Kevin Hinkle
c/o Kukio Utility Company, LLC
P.O. Box 5349
Kailua-Kona, Hawaii 96745-5349
Facsimile Number: 325-9784

1 copy

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 HAR § 6-61-15.

Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or U.S. mail. In addition, if available, all parties shall provide copies of their filings, information requests and

information request responses to the other parties via diskette, compact disc 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, compact disc 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 above.

VII.

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 VI above.

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


VIII.

GENERAL

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

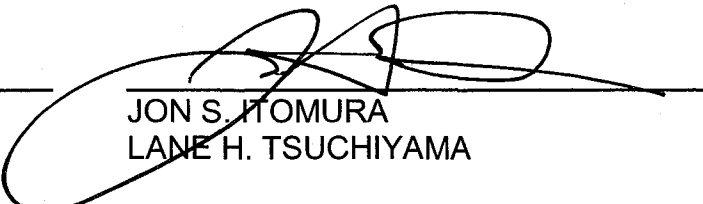
This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the parties in writing and approved by the commission, or upon the commission's own motion. This Stipulated Procedural Order may be executed by the parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and 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.

DATED: Honolulu, Hawai'i, November 20, 2007.



KENT D. MORIHARA
MICHAEL H. LAU
KRIS N. NAKAGAWA
RHONDA L. CHING
Morihara Lau & Fong LLP

Attorneys for Kukio Utility Company, LLC



JON S. ITOMURA
LANE H. TSUCHIYAMA

Attorneys for the Division of Consumer
Advocacy, Department of Commerce
and Consumer Affairs

APPROVED AND SO ORDERED THIS _____,

at Honolulu, Hawaii.

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:

Jodi L.K. Yi
Commission Counsel

EXHIBIT "A"
STIPULATED REGULATORY SCHEDULE
KUKIO UTILITY COMPANY, LLC ("KUC")
Docket No. 2007-0198

	DATE	PROCEDURAL STEPS ¹
1.	Friday, July 20, 2007	Application Filed at Commission
2.	Wednesday, October 11, 2007	Public Hearing
3.	Thursday, October 4, 2007 through Thursday, November 15, 2007	Consumer Advocate's Submission of Information Requests ("IRs") to KUC
4.		KUC's Response to Consumer Advocate's IRs ²
5.	Friday, November 30, 2007	Consumer Advocate's Direct Testimony(ies) and Exhibits
6.	Monday, December 3, 2007	KUC's Submission of IRs to Consumer Advocate
7.	Monday, December 17, 2007	Consumer Advocate's Response to KUC's IRs
8.	Friday, December 28, 2007	KUC's Rebuttal Testimony(ies) ³
9.	Friday, January 11, 2008	Settlement Agreement (if any)
10.	Friday, January 18, 2008	Proposed Decision and Order ⁴

¹ The above Stipulated Regulatory Schedule assumes that the Commission does not permit a person to intervene in this proceeding. In the event a person is permitted to intervene, an amended Stipulated Regulatory Schedule will be filed with the Commission by all applicable parties either individually or collectively for Commission review and approval to assist the Commission to complete its deliberations and issue a decision and order in accordance with Hawaii Revised Statutes ("HRS") § 269-16(f)(3), which states in relevant part that "[i]f the commission permits a person to intervene, the six-month period shall not apply and the commission shall make every effort to complete its deliberations and issue its decision within the nine-month period from the date the public utility's completed application was filed, pursuant to subsections (b), (c), and (d)."

² During the period from October 4, 2007 through November 15, 2007, the Consumer Advocate has the right to issue information requests ("IRs") on KUC at any time. KUC agrees to use its best efforts to provide a response to these IRs to the Consumer Advocate within 14 days from the date the particular information request(s) were submitted to KUC, but in no event later than 21 days after submission. The IRs and responses will only be shared between KUC and the Consumer Advocate initially. However, in periodic intervals, but in no event later than the seven (7) days after the date the Consumer Advocate files its Direct Testimony and Exhibits with the Commission, KUC and the Consumer Advocate will compile and file with the Commission all IRs and responses provided during the time period.

³ The parties reserve the right to engage in settlement discussions at any time on any and/or all disputed issues that may exist between the parties' respective positions in the subject docket. In the event a settlement is reached by the parties, the parties will notify the Commission accordingly and request such changes to the remaining procedural steps as may be applicable or prudent under the circumstances.

⁴ Following the issuance of the proposed decision and order, the parties, as instructed by the Commission, will notify the Commission whether they object or do not accept all or any part of the proposed decision and order in accordance with HRS § 269-16(f)(3). If any portion of the proposed decision and order is objected to or not accepted by either KUC or the Consumer Advocate, an extended Stipulated Regulatory Schedule (which may or may not include a contested case hearing) will then be filed with the Commission by KUC and the Consumer Advocate either individually or together for Commission review and approval to assist the Commission to complete its deliberations and issue a decision and order in accordance with HRS § 269-16(d).

CERTIFICATE OF SERVICE

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

MS. CATHERINE P. AWAKUNI
Executive Director
Department of Commerce and Consumer Affairs
Division of Consumer Advocacy
335 Merchant Street, Room 326
Honolulu, Hawaii 96813

MR. KEVIN HINKLE
KUKIO UTILITY COMPANY, LLC
P.O. Box 5349
Kailua-Kona, Hawaii 96745-5349

KENT D. MORIHARA, ESQ.
MICHAEL H. LAU, ESQ.
KRIS N. NAKAGAWA, ESQ.
RHONDA L. CHING, ESQ.
MoriHara Lau & Fong LLP
400 Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813

Attorneys for KUKIO UTILITY COMPANY, LLC

DATED: Honolulu, Hawai'i, _____.

Signature

Printed Name

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served a copy of the foregoing Order No. 23927 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
DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P. O. Box 541
Honolulu, HI 96809

KEVIN HINKLE
c/o KUKIO UTILITY COMPANY, LLC
P.O. Box 5349
Kailua-Kona, HI 96745-5349

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

Counsel for Kukio Utility Company, LLC



Karen Higashi

DATED: DEC 24 2007