

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
THE GAS COMPANY, LLC)
To File a General Rate Increase)
For All Utility Gas Divisions.)
_____)

DOCKET NO. 2008-0081

ORDER INSTRUCTING THE GAS COMPANY, LLC, TO
COMPLY WITH THE TERMS OF THE PROTECTIVE ORDER

RECEIVED

2009 APR -3 A 8:06

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

PUBLIC UTILITIES
COMMISSION

2009 APR -2 A 10:00

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
THE GAS COMPANY, LLC) Docket No. 2008-0081
To File a General Rate Increase)
For All Utility Gas Divisions.)
_____)

ORDER INSTRUCTING THE GAS COMPANY, LLC, TO
COMPLY WITH THE TERMS OF THE PROTECTIVE ORDER

By this Order, the commission instructs THE GAS COMPANY, LLC ("TGC"), to comply with Paragraph No. 5 of the Protective Order, filed on June 10, 2008, governing the designation of confidential information.¹

I.

Protective Order

On June 10, 2008, the commission issued its Protective Order, which approved without change the proposed stipulated protective order submitted by the Parties.

On February 24, 2009, TGC filed with the commission its responses to the Consumer Advocate's information requests.²

¹The Parties are TGC and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62(a).

²See TGC's Response to Information Requests from the Consumer Advocate; and Certificate of Service, filed on February 24, 2009.

TGC's responses consist of five binders of publicly disclosed information, plus nine separate binders of information filed under confidential seal. TGC's next filing, i.e., its rebuttal testimonies, is due by April 17, 2009.³

TGC, in its responses, does not explain the basis for designating its information as confidential, as required by the terms of the Protective Order. Specifically, Paragraphs No. 4 and No. 5 state:

4. A party to this proceeding may designate as confidential any information it believes, in good faith, contains trade secrets or other confidential research, development, commercial, financial, vendor, or bid information, including but not limited to cost support studies. Such information shall be protected against disclosure to a non-qualified person pursuant to the terms of this protective order, unless such information is declassified, or permission to disclose the information to such non-qualified person is granted by the party claiming confidentiality, as provided in paragraph 13 below.

5. If a party designates information as confidential pursuant to paragraph 4 above or 6 below, it shall produce the confidential information in accordance with the procedures described in paragraphs 11 through 14 below, and concurrently provide certain information in writing to the Commission and the Consumer Advocate. If a party seeks to designate information as confidential, it must: (1) identify, in reasonable detail, the information's source, character, and location, (2) state clearly the basis for the claim of confidentiality, and (3) describe, with particularity, the cognizable harm to the producing party from any misuse or unpermitted disclosure of the information. If the Commission or any party challenges the claim of confidentiality of the information, the party claiming confidentiality shall bear the burden of

³See Order Approving Proposed Stipulated Prehearing Order, as Modified, filed on December 16, 2008.

proof in supporting its claim of confidentiality, and the Commission will determine whether: (1) the information is confidential and subject to protection under this protective order, or (2) the challenged information must be disclosed by the producing party.

Protective Order, Paragraphs No. 4 and No. 5, at 3-4 (emphasis added).

Accordingly, the commission instructs TGC to comply with Paragraph No. 5 of the Protective Order, governing the designation of confidential information.⁴ TGC shall file its written explanation by April 17, 2009.

II.

Orders

THE COMMISSION ORDERS:

1. TGC shall comply with Paragraph No. 5 of the Protective Order, filed on June 10, 2008. TGC shall file its written explanation by April 17, 2009.

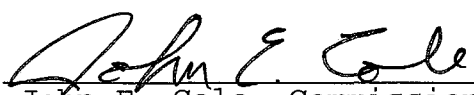
2. At any appearances before the commission, TGC shall be prepared to meet its burden of proof with respect to its claim of confidentiality, as required by Paragraph No. 5 of the Protective Order, in the event that its claim of confidentiality is challenged by the commission or the Consumer Advocate.

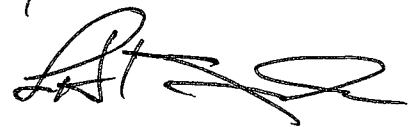
⁴See In re Young Bros., Ltd., Docket No. 2006-0396, Order No. 23222, filed on January 26, 2007, at Section II.C, Information Designated as Confidential, at 36-39; see also In re Young Bros., Ltd., Docket No. 2008-0266, Order Setting Forth Certain Pre-Application Instructions to Young Brothers, Limited, filed on October 28, 2008 (limiting the extent and scope of information designated as confidential).

DONE at Honolulu, Hawaii APR - 2 2009

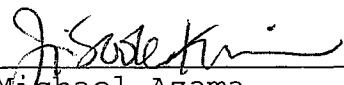
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

for 
Michael Azama
Commission Counsel

2008-0081.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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

JEFFREY M. KISSEL
PRESIDENT & CHIEF EXECUTIVE OFFICER
THE GAS COMPANY, LLC
745 Fort Street, 18th Floor
Honolulu, HI 96813

GEORGE T. AOKI, ESQ.
THE GAS COMPANY, LLC
745 Fort Street, 18th Floor
Honolulu, HI 96813

Counsel for THE GAS COMPANY, LLC

KENT D. MORIHARA, ESQ.
KRIS N. NAKAGAWA, ESQ.
MORIHARA LAU & FONG LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813

Outside Regulatory Counsel for THE GAS COMPANY, LLC