

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application )

of )

KAPALUA WATER COMPANY, LTD. )

For review and approval of rate increases; )  
revised rate schedules; and revised rules. )  
)  
)  
)

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Docket No. 2008-0325

STIPULATED PROCEDURAL ORDER

EXHIBIT A

and

CERTIFICATE OF SERVICE

RECEIVED

2009 APR 30 A 9:47

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

PUBLIC UTILITIES  
COMMISSION

2009 APR 29 P 12:44

FILED

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**STIPULATION FOR PROCEDURAL ORDER**

KAPALUA WATER COMPANY, LTD. ("KWC" or "Applicant"), a Hawaii corporation, and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (the "Consumer Advocate"), 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 THE ISSUES**

The issues in this case are:

1. Are KWC's proposed rate increases reasonable?
  - a. Are the proposed tariffs, rates and charges just and reasonable?
  - b. Are the revenue forecasts for Test Year ending December 31, 2009 ("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 (aka, Schedule of Proceedings) 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 KWC 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
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Division of Consumer Advocacy 335 Merchant Street Room 326 Honolulu, HI 96813 Facsimile Number: 586-2780	3 copies
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Kent D. Morihara, Esq. Kris N. Nakagawa, Esq. Sandra L. Wilhide, 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
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Jeffrey T. Pearson, P.E. Water Manager, Community Development Kapalua Water Company, Ltd. 1000 Kapalua Drive Lahaina, HI 96768 Facsimile Number: 871-4375	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.  
Kris N. Nakagawa, Esq.  
Sandra L. Wilhide, 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

Jeffrey T. Pearson, P.E.  
Water Manager, Community Development  
Kapalua Water Company, Ltd.  
1000 Kapalua Drive  
Lahaina, HI 96768  
Facsimile Number: 871-4375

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.

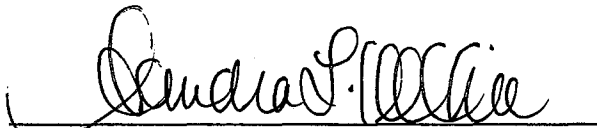
## VIII.

### GENERAL

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

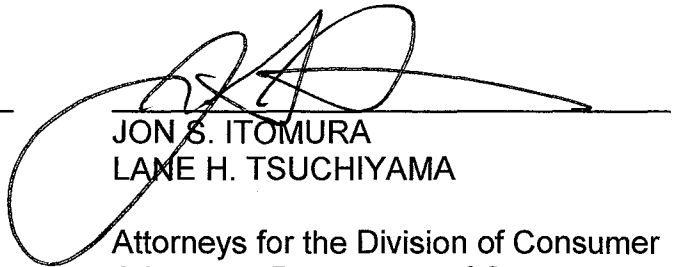
This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the parties in writing and approved by the Commission, or upon the Commission's own motion. This Stipulated Procedural Order may be executed by the parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the 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, April 6, 2009.



KENT D. MORIHARA  
KRIS N. NAKAGAWA  
SANDRA L. WILHIDE  
RHONDA L. CHING

Morihara Lau & Fong LLP  
Attorneys for Kapalua Water Company, Ltd.



JON S. ITOMURA  
LANE H. TSUCHIYAMA

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


APPROVED AND SO ORDERED THIS APR 29 2009,

at Honolulu, Hawaii.

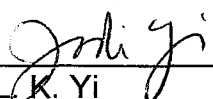
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

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**  
**KAPALUA WATER COMPANY, LTD. ("KWC")**  
**Docket No. 2008-0325**

	DATE	PROCEDURAL STEPS <sup>1</sup>
1.	January 15, 2009	Application Filed at Commission
2.	March 11, 2009	Public Hearing
3.	April 6, 2009 through April 16, 2009	Consumer Advocate's Submission of Information Requests ("IRs") to KWC
4.	April 30, 2009	KWC's Response to Consumer Advocate's IRs <sup>2</sup>
5.	May 14, 2009	Consumer Advocate's Direct Testimony(ies) and Exhibits
6.	May 22, 2009	KWC's Submission of IRs to Consumer Advocate
7.	June 1, 2009	Consumer Advocate's Response to KWC's IRs
8.	June 8, 2009	KWC's Rebuttal Testimony(ies) <sup>3</sup>
9.	June 15, 2009	Settlement Agreement (if any)
10.	By July 15, 2009	Proposed Decision and Order <sup>4</sup>

<sup>1</sup> 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)."

<sup>2</sup> During the period from April 6, 2009 through April 16, 2009, the Consumer Advocate has the right to issue IRs on KWC at any time. KWC 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 KWC, but in no event later than 21 days after submission. The IRs and responses will only be shared between KWC 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, KWC and the Consumer Advocate will compile and file with the Commission all IRs and responses provided during the time period.

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

<sup>4</sup> 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 KWC 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 KWC 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

The foregoing Stipulated Procedural 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  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813

JEFFREY T. PEARSON, P.E.  
Water Manager, Community Development  
Kapalua Water Company, Ltd.  
1000 Kapalua Drive  
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