

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
WAI`OLA O MOLOKA`I, INC. )  
For Review and Approval of Rate )  
Increases; Revised Rate Schedules; )  
And Revised Rules. )  

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DOCKET NO. 2009-0049

ORDER DENYING WAI`OLA O MOLOKA`I, INC.'S  
REQUEST TO SUBMIT ITS UNAUDITED FINANCIAL STATEMENTS  
IN LIEU OF AUDITED FINANCIAL STATEMENTS

PUBLIC UTILITIES  
COMMISSION

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FILED



I.

Background

In 1993, WOM was granted commission authority to provide water service as a public utility to residential, commercial, and agricultural customers on the island of Molokai.<sup>3</sup> WOM is ultimately a wholly owned subsidiary of Molokai Properties Limited, dba Molokai Ranch ("MPL").<sup>4</sup> WOM provides water utility services to businesses, residences, churches, and Maui County parks located in Maunaloa, Kualapuu, Kipu, Manawainui, and the Molokai Industrial Park areas on the island of Molokai.

In late March 2008, MPL announced that it could no longer subsidize its utility companies<sup>5</sup> and that MPL was planning to cease providing utility services within six months. On June 16, 2008, the commission, on its own motion, initiated Docket No. 2008-0115 to provide MPL's public utilities with temporary rate relief.

on August 14, 2008, the commission issued its Order Approving Temporary Rate Relief for Molokai Public Utilities, Inc. and Wai`ola O Moloka`i, Inc., in Docket No. 2008-0115 ("Temporary Rate Order") approving, among other things, a temporary rate increase of WOM's User Charge from

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<sup>3</sup>See In re Wai`ola O Moloka`i, Inc., Docket No. 7122, Decision and Order No. 12125, filed on January 13, 1993 ("Decision and Order No. 12125").

<sup>4</sup>WOM is a wholly owned subsidiary of Kaluakoi Water, LLC, which is a wholly owned subsidiary of Kaluakoi Land, LLC, which is a wholly owned subsidiary of MPL. See Application, Exhibit WOM 2, Schedule 2.

<sup>5</sup>In addition to WOM, MPL's utility operating subsidiaries include, Molokai Public Utilities, Inc. ("MPU") and Mosco, Inc. ("Mosco").

\$1.85 per 1,000 gallons (approved in Decision and Order No. 12125) to \$5.15 per 1,000 gallons. The commission approved the temporary rate increase to take effect on September 1, 2008, and terminate on February 28, 2009 (i.e., for a six-month period), unless ordered otherwise by the commission. Moreover, in that order, the commission required WOM to file an application for a general rate increase within six months of the date of the order if no third-party is found to take over the utility system.

By an order issued on February 24, 2009, the commission, in response to a filed motion, extended the term of the temporary rates approved in the Temporary Rate Order until August 2009, or until the commission rules on the general rate increase applications to be filed by MPU and WOM.<sup>6</sup> In that order, the commission also granted WOM an extension of time until March 2, 2009, to file its general rate increase application in compliance with the commission's Temporary Rate Order.

In compliance with the commission's orders in Docket No. 2008-0115, WOM filed the Application on March 2, 2009, requesting commission approval of its rate increases, revised rate schedules, and revised rules. In addition, WOM requested that its unaudited financial statements, submitted with its Application, be accepted in lieu of the audited financial statements otherwise required under HAR § 6-61-75.

WOM currently serves approximately 550 active customers within its service territory on Molokai. Its current rates,

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<sup>6</sup>Order Approving Extension of Temporary Rate Relief and Request for an Extension to File General Rate Case Applications, issued on February 24, 2009, in Docket No. 2008-0115 ("Order Extending Temporary Rates").

aside from its User Charge of \$5.15 per 1,000 gallons (which was approved in the Temporary Rate Order), are based on rates and charges approved by the commission in Decision and Order No. 12125. In its Application, WOM is proposing to increase its rates and charges to produce additional revenues of \$308,781, or an approximately 106.97% increase from the pro forma revenue amount of \$288,660 at present rates for the July 1, 2009 through June 30, 2010 test year ("Test Year").

Specifically, with regard to its rates and services, WOM is proposing to: increase its User Charge from the current \$5.15 per 1,000 gallons (authorized under the Temporary Rate Order) to \$10.69 per 1,000 gallons, which is an approximate increase of 107.6%; (2) increase its various Service Charges by approximately 69.3% to 110%, based on the size of the meters; (3) increase its various Private Fire Protection Charges by approximately 105.7% to 108%; (4) establish an Automatic Power Cost Adjustment Clause, which permits adjustments for electric costs during the year; and (5) amend Rule 20 of its Rules and Regulations to increase its Reconnection Charge from \$50.00 to \$100.00, which is an increase of 100%.

On March 30, 2009, the Consumer Advocate filed its Statement of Position Regarding Completeness of Application; however, the statement was untimely filed.<sup>7</sup>

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<sup>7</sup>The Consumer Advocate, within twenty-one days following the receipt of an application for a rate increase, may object to the sufficiency of the application. See HRS § 269-16(d); HRS § 269-16(f)(3). The deadline for the Consumer Advocate to file any objections to the sufficiency of the Application was on March 23, 2009.

## II.

### Discussion

WOM filed its Application pursuant to HRS § 269-16, as amended; HAR Title 6, Chapter 61; and ordering paragraph no. 8 of the Temporary Rate Order. As a public utility with annual gross operating revenues of less than \$2 million, WOM requested that its Application be reviewed pursuant HRS § 269-16(f). Under HRS § 269-16(f), the commission must make every effort to issue its proposed decision and order within six months from the filing date of WOM's completed Application, "provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

HAR chapter 6-61, subchapter 8, governs general rate increase applications filed by public utilities. HAR § 6-61-86 of subchapter 8 provides in respective part that a public utility requesting authority to change its rates or charges shall file: (1) an application; and (2) a financial statement under HAR § 6-61-75. HAR § 6-61-75(b), in turn, states in part:

(b) The financial statement submitted pursuant to section (a) shall be accompanied by:

- (1) An audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year;
- (2) An income statement covering the period from the close of the last audited balance sheet up to the date of the latest available balance sheet attached to the application[.]

HAR § 6-61-75(b).

Under HAR § 6-61-92, the commission may modify the requirements of Subchapter 8, HAR Chapter 6-61, in its discretion, if the requirements of the subchapter would impose a financial hardship on the applicant or be unjust or unreasonable. Further, under HRS § 269-16(f), the commission is authorized to amend its rules and procedures "to provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers." HRS § 269-16(f).

In support of its Application, WOM submitted unaudited financial statements for the year ending June 30, 2008, and the six-month period ending December 1, 2008, attached as Exhibit WOM 2, Schedules 4 and 5 to its Application.

WOM requests that the commission accept its unaudited financial statements in lieu of the audited financial statements required by HAR § 6-61-75(b). According to WOM, as a small public utility with annual revenues of substantially less than \$2 million, it does not have audited financial reports, and to prepare an audited financial report will "delay the filing and . . . unjustly impose additional financial burdens on [WOM]."<sup>8</sup> WOM also notes that "the Commission has previously waived the audited financial statement requirement for other similarly situated utilities."<sup>9</sup>

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<sup>8</sup>See Application at 13.

<sup>9</sup>Id.

The lack of audited financial documentation by WOM was a legitimate cause for concern in Docket No. 2008-0115.<sup>10</sup> Nonetheless, in balancing the need for WOM to continue providing water service to its customers, without interruption, versus WOM's potential cessation of water service in August 2008, in the absence of immediate, temporary rate relief, the commission "ha[d] no choice but to take the unprecedented step of ordering temporary rate increases to ensure the continuation of water . . . services for the residents of West Molokai."<sup>11</sup>

Here, in its Application, WOM proposes various increases in its water rates and charges, including an increase in its User Charge of approximately 107.6% over the temporary water User Charge that has been in effect since September 1, 2008. WOM, moreover, proposes these various increases in its rates and charges in the absence of audited financial statements.

Under the circumstances, the commission finds that the completion and submission of audited financial statements is just, reasonable, and consistent with the public interest and the underlying intent of HAR § 6-61-75(b). The commission, thus, denies WOM's request to submit unaudited financial statements in lieu of the audited financial statements required by HAR § 6-61-75(b).

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<sup>10</sup>See Order Extending Temporary Rates at 4 (County of Maui's position that it was unable to determine whether the commission would be justified in granting the motion to extend because MPU, WOM, and Mosco did not file adequate, audited financial documentation).

<sup>11</sup>See Temporary Rate Order at 19.



Accordingly, the commission dismisses WOM's Application, without prejudice, as incomplete. Consistent with HRS § 269-16(d), WOM shall re-file an amended application in this proceeding that is supported by audited financial statements ("Amended Application") as soon as reasonably possible. Until the Amended Application is filed, WOM shall provide monthly status reports regarding the status of its efforts to comply with the commission's requirements. The first status report shall be filed on May 1, 2009, with subsequent reports due on the first business day of each month thereafter, and copies of the same shall be served on the Consumer Advocate.<sup>12</sup>

In addition, WOM's Application proposes an increase of its rates (basically its User Charge) from the temporary rates approved in the Temporary Rate Order. The rates approved in the Temporary Rate Order are not WOM's permanent rates and were only to be in effect for a short period of time. Thus, WOM's articulation of proposed rate increases from its temporary User Charge is misleading and improper. Accordingly, WOM's Amended Application, to be filed in this proceeding, shall reflect any proposed rate increases from its permanent rates approved in Decision and Order No. 12125.

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<sup>12</sup>The commission intends to schedule and hold the requisite public hearing on WOM's Amended Application on the island of Molokai, once the Amended Application is filed and deemed complete.

III.

Orders

THE COMMISSION ORDERS:

1. WOM's request to submit its unaudited financial statements in lieu of audited financial statements, required under HAR § 6-61-75(b), is denied.

2. WOM's Application, filed on March 2, 2009, is dismissed, without prejudice, as incomplete.

3. WOM shall re-file an Amended Application in this proceeding that is supported by audited financial statements. Until the Amended Application is filed, WOM shall provide monthly status reports regarding the status of its efforts to comply with the commission's requirements. The first status report shall be filed on May 1, 2009, with subsequent reports due on the first business day of each month thereafter, and copies of the same shall be served on the Consumer Advocate.


4. WOM's Amended Application, to be filed in this proceeding, shall reflect any proposed rate increases from its permanent rates approved in Decision and Order No. 12125.

DONE at Honolulu, Hawaii APR - 2 2009.

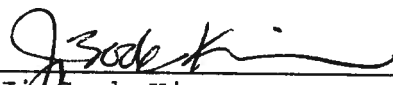
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso, Chairman

By:   
John E. Cole, Commissioner

By:   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Ji Sook Kim  
Commission Counsel

2009-0049.sl

CERTIFICATE OF SERVICE

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

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