

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
)  
WAIKOLOA SANITARY SEWER )  
COMPANY, INC., dba )  
WEST HAWAII SEWER COMPANY )  
)  
For Expedited Review and Approval )  
to Increase Rates. )  
\_\_\_\_\_ )

DOCKET NO. 05-0329

ORDER NO. 24036

Filed Feb. 13, 2008  
At 10 o'clock A.M.

Karen Higashi  
Chief Clerk of the Commission

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

RECEIVED  
2008 FEB 14 A 9 06  
DIV OF PUBLIC UTILITIES



consideration that identifies the remaining issues in dispute and remaining procedures, including any contested case hearing, by January 25, 2008."<sup>2</sup>

On January 25, 2008, the Parties jointly submitted their Stipulated Prehearing Order.

## II.

### Stipulated Prehearing Order, as Modified

Upon review, the commission will adopt the Parties' Prehearing Order, subject to certain modifications:

1. For Section II, Schedule of Proceedings, the commission will change the date of the prehearing conference from April 1, 2008 to the week of April 1, 2008, due to the commission's unavailability on April 1, 2008.<sup>3</sup>

2. "[C]onsistent with the past commission decisions governing stipulated prehearing and procedural orders, respectively[,]"<sup>4</sup> Section III.F is amended as follows:<sup>5</sup>

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<sup>2</sup>Interim Decision and Order No. 23940, Ordering ¶ No. 4, at 13-14.

<sup>3</sup>The Parties will be notified of the specific date and time of the prehearing conference, scheduled for the commission's Honolulu office. In addition, the Notice of Evidentiary Hearing for the April 17, 2008 evidentiary hearing, scheduled for the commission's hearing room in Honolulu, is forthcoming.

<sup>4</sup>In re Hawaiian Elec. Co., Inc., Docket No. 2007-0409, Order No. 23985, filed on January 29, 2008, at 4 (quoting In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Order No. 23351, filed on April 10, 2007, at 3).

<sup>5</sup>Deletions are bracketed, additions are underscored.

F. General

These procedures are consistent with the orderly conduct of this docket. [Pursuant to Chapter 61, subchapter 3, section 6-61-37 of the Commission's Rules of Practice and Procedure, this] This Stipulated [Procedural] Prehearing Order shall control the subsequent course[s] of the proceedings, unless modified [at or prior to the hearings to prevent manifest injustice.] by the Parties in writing and approved by the Commission consistent with HAR § 6-61-23, to the extent applicable, or upon the Commission's own motion.

III.

Orders

THE COMMISSION ORDERS:

1. The Stipulated Prehearing Order submitted by the Parties on January 25, 2008, attached as Exhibit 1 herein, is adopted as modified herein to govern the remainder of the proceedings in this docket.

2. Section II, Schedule of Proceedings, is amended by changing the date of the prehearing conference from April 1, 2008 to the week of April 1, 2008.

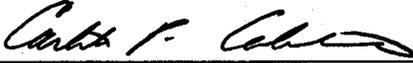
3. Section III.F, General, is amended to read as follows:

F. General

These procedures are consistent with the orderly conduct of this docket. This Stipulated Prehearing Order shall control the subsequent course of the proceedings, unless modified by the Parties in writing and approved by the Commission consistent with HAR § 6-61-23, to the extent applicable, or upon the Commission's own motion.

DONE at Honolulu, Hawaii FEB 13 2008

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By EXCUSED  
John E. Cole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel

05-0329.cp

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Increase Rates. )  
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STIPULATED PREHEARING ORDER

CERTIFICATE OF SERVICE

PUBLIC UTILITIES  
COMMISSION

2008 JAN 25 P 3:22

FILED

Of Counsel:

BAYS, DEAVER, LUNG,  
ROSE & HOLMA  
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A Law Corporation  
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Attorneys for WAIKOLOA SANITARY SEWER  
COMPANY, INC., dba WEST HAWAI'I SEWER  
COMPANY

## STIPULATED PREHEARING ORDER

On December 29, 2005, Waikoloa Sanitary Sewer Company, Inc., d/b/a West Hawaii Sewer Company ("WHSC") filed an application seeking expedited approval to increase its rates ("Application"). WHSC served copies of its Application on the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate").<sup>1</sup>

On October 1, 2007, the Hawaii Public Utilities Commission ("Commission") issued Proposed Decision and Order No. 23688 in Docket No. 05-0329, authorizing an increase in WHSC's standby charge from \$19.94 to \$36.73 per unit, effective October 15, 2007.

On October 15, 2007, WHSC submitted its Notice of Partial Acceptance and Notice of Partial Non-Acceptance of Proposed Decision and Order No. 23688, objecting to the Commission's upward adjustment of \$546,968 to WHSC's contributions in aid of construction ("CIAC") balance and to the Commission's calculation of accumulated amortization of CIAC, and requesting a contested case hearing under HRS § 269-16(f).

By Interim Decision and Order No. 23940, the Commission approved, on an interim basis, an increase in WHSC's monthly standby charge to \$36.77 per unit. The Commission instructed the Parties to submit a stipulated prehearing order for the Commission's review and consideration that identifies the remaining issues in dispute and remaining procedures, including any contested case hearing, by January 25, 2008.

WHSC and the Consumer Advocate have reached an agreement on the remaining issues in dispute and procedural schedule. WHSC and the Consumer Advocate therefore submit this Stipulated Prehearing Order to the Commission which is acceptable to the parties.

ACCORDINGLY, IT IS ORDERED that the following Schedule of Proceedings and procedures shall be utilized in this docket.

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<sup>1</sup> The Parties in this Docket are WHSC and the Consumer Advocate.

I.

ISSUES

The underlying issues presented in this proceeding are as follows:

1. Whether the Commission erred in approving an upward adjustment of \$546,968 to WHSC's CIAC balance, increasing WHSC's CIAC balance to \$2,209,707.
2. Even assuming some upward adjustment of CIAC was reasonable, whether the Commission erred in calculating the accumulated amortization of CIAC.

The first issue will involve a review of sub-issues including, but not limited to, the following:

- A. Whether the Commission's upward adjustment of \$114,944 in CIAC is appropriate.
- B. Whether the Commission's upward adjustment of \$432,021 in claimed tax gross-up amounts to WHSC's CIAC is appropriate.
- C. Whether the Commission's upward adjustment of \$432,021 in claimed tax gross-up amounts to WHSC's CIAC balance violates the Hawaii Supreme Court's decision in In re Waikoloa Sanitary Sewer Company ("WHSC") Inc., 109 Haw. 263 (2005).
- D. Whether the Commission's calculation of tax gross-up was proper.

The second issue will involve a review of sub-issues including, but not limited to, the following:

- E. Whether a 50-year amortization period for the claimed additional CIAC is reasonable.
- F. Whether the Commission's calculation of accumulated amortization for the claimed CIAC funds beginning in 2001 rather than the in-service dates of the unidentified regulatory assets was proper.

II.

SCHEDULE OF PROCEEDINGS

<b>Simultaneous Filing of Written Direct Testimonies</b>	<u>March 3, 2008</u>
<b>Prehearing Conference</b>	<u>April 1, 2008</u>
<b>Evidentiary Hearing</b>	<u>April 17, 2008</u>
<b>Simultaneous Opening Briefs by Parties</b>	3 weeks after transcripts
<b>Simultaneous Reply</b>	3 weeks after Opening Briefs

III.

MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE  
THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A. Matters of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that WHSC has filed with the Commissioner, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to water, sewer, and/or irrigation utilities 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 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.

B. Copies of Filings

1. Filings:

Commission	Original + 8 copies
WHSC	2 copies
Consumer Advocate	3 copies

2. All pleadings and other documents required to be filed with the Commission shall be filed within the time limits prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

3. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery.

C. Witnesses

Witnesses submitting written direct testimony shall be made available for cross-examination at the evidentiary hearing. Witnesses will not be permitted to read prefiled written testimony at the evidentiary hearing. Witnesses should file the work papers used in preparing the

evidence they sponsor at the time they submit their testimony and exhibits and have such work papers available at the evidentiary hearing.

In the presentation of the testimony, each witness may give a brief oral summary of the written testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for their testimony and exhibits, as applicable.

The parties shall cooperate to accommodate the schedules of mainland witnesses and will inform the Commission in advance of any scheduling difficulties with respect to such witnesses. If a party has an objection to a timely request to schedule a mainland witness in advance of other witnesses, the party shall make a timely objection to the Commission. The parties will make their best effort to accommodate the schedules of mainland witnesses by coordinating their appearance at the evidentiary hearing.

D. 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 page 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 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 except with the approval of the Commission.

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

E. Communications

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning *ex parte* communications is applicable to any communications between a party and the Commission.

Communications between the parties should be through counsel. All pleading, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall also be served on opposing counsel.

F. General

These procedures are consistent with the orderly conduct of this docket. Pursuant to Chapter 61, subchapter 3, section 6-61-37 of the Commission's Rules of Practice and Procedure, this Stipulated Procedural Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearings to prevent manifest injustice.

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DATED: Honolulu, Hawaii, January 25, 2008.



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BRUCE D. VOSS  
LORI N. TANIGAWA

Attorneys for WAIKOLOA SANITARY SEWER  
COMPANY, INC., dba WEST HAWAI'I SEWER  
COMPANY



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JON S. ITOMURA  
LANE H. TSUCHIYAMA

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

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2008, three (3) copies of the foregoing document were duly served on the following party, by hand delivery:

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
335 Merchant Street, 3rd Floor  
Honolulu, HI 96813

DATED: Honolulu, Hawai'i, January 25, 2008.



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BRUCE D. VOSS  
LORI N. TANIGAWA

Attorneys for WAIKOLOA SANITARY SEWER  
COMPANY, INC., dba WEST HAWAI'I SEWER  
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24036 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  
P. O. Box 541  
Honolulu, HI 96809

BRUCE MOORE  
DEVELOPMENT MANAGER  
WEST HAWAII SEWER COMPANY  
150 Waikoloa Beach Drive  
Waikoloa, HI 96738-5703

BRUCE D. VOSS, ESQ.  
LORI N. TANIGAWA, ESQ.  
BAYS, DEEVER, LUNG, ROSE & HOLMA  
Alii Place, 16<sup>th</sup> Floor  
1099 Alakea Street  
Honolulu, HI 96813

Counsel for WAIKOLOA SANITARY SEWER COMPANY, INC., dba  
WEST HAWAII SEWER COMPANY

  
\_\_\_\_\_  
Karen Higashi

DATED: FEB 13 2008