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**PUBLIC UTILITIES COMMISSION**  
**DEPARTMENT OF BUDGET AND FINANCE**

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January 21, 2014

**DEPT. COMM. NO. 63**

The Honorable Donna Mercado Kim  
President of the Senate  
State Capitol, Room 206  
415 South Beretania Street  
Honolulu, Hawaii 96813

The Honorable Joseph Souki  
Speaker of the House  
State Capitol, Room 431  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: PUC Docket No. 2011-0148 – Application of Hawaii Water Service Company, Inc. (“HWSC”) for a General Rate Increase for Its Pukalani Wastewater District.

Dear President Kim and Speaker Souki:

The Public Utilities Commission (“Commission”) issued Decision and Order No. 31810 in the above-referenced docket on January 14, 2014, essentially adopting Proposed Decision and Order No. 31760, filed on December 23, 2013, as the Commission’s decision and order for the proceeding. A copy of Decision and Order No. 31810 is enclosed for your records. In connection therewith, the Commission respectfully submits this report in accordance with Hawaii Revised Statutes (“HRS”) § 269-16(f)(3).

For public utilities having annual gross revenues of less than \$2,000,000, like HWSC in this docket, HRS § 269-16(f)(3) requires the Commission to, in relevant part:

Make every effort to complete its deliberations and issue a proposed decision and order within six months from the date the public utility files a completed application with the commission; provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene. If a proposed decision and order is rendered after the six-month period, the commission shall report in writing the reasons therefor to the legislature within thirty days after rendering the proposed decision and order. Prior to the issuance of the commission's proposed decision and order, the parties shall not be entitled to a contested case hearing.

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If all parties to the proceeding accept the proposed decision and order, the parties shall not be entitled to a contested case hearing, and section 269-15.5 shall not apply. If 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).

If a party does not accept the proposed decision and order, either in whole or in part, that party shall give notice of its objection or nonacceptance within the timeframe prescribed by the commission in the proposed decision and order, setting forth the basis for its objection or nonacceptance; provided that the proposed decision and order shall have no force or effect pending the commission's final decision. If notice is filed, the above 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 as set forth in subsection (d). Any party that does not accept the proposed decision and order under this paragraph shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing.

...

HRS §269-16(f)(3).

On August 12, 2011, HWSC filed its application ("Application"), requesting approval of a general rate increase for its Pukalani wastewater district.<sup>1</sup> However, due to an error with its filed Application, HWSC filed certain amendments on September 2, 2011, and, thus, the Commission determined that HWSC's Application, as amended, was complete as of September 2, 2011. Given the amended date of the Application, the Commission's six-month deadline for the issuance of the proposed decision and order was March 2, 2012. Although the Parties' Stipulated Procedural Order approved by the Commission on November 8, 2011, established procedural deadlines within the timeframe for the Commission to issue a proposed decision and order within the six-month timeframe, the Parties (separately or jointly) requested and were granted numerous extensions of time resetting various procedural deadline dates,<sup>2</sup> such that

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<sup>1</sup>The parties to this docket are HWSC and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to HRS § 269-51 and Hawaii Administrative Rules § 6-61-62(a) (collectively, the "Parties").

<sup>2</sup>See e.g., Order No. 30017 Granting Hawaii Water Service Company, Inc.'s Extension Request, Filed on December 6, 2011, filed on December 14, 2011; Order No. 30297 Granting Hawaii Water Service Company, Inc.'s Third, Fourth, and Fifth Extension Requests,

President Kim and Speaker Souki  
January 21, 2014  
Page 3

there was no strict compliance with the procedural time schedule established by the Commission in this proceeding.

Additionally, those reset procedural deadlines extended far beyond the six-month timeframe contemplated under HRS § 269-16(f)(3). For instance, the deadline for the Parties to submit their Settlement Letter was extended to November 2, 2012. See Order No. 30688 Granting Hawaii Water Service Company, Inc.'s Tenth Extension Request, Filed on September 27, 2012, filed on October 12, 2012, at 2. Accordingly, the Parties effectively waived the requirement that the Commission issue a proposed decision and order within the six-month period under HRS § 269-16(f)(3). For these reasons, the Commission was unable to issue its proposed decision within the six-month period set forth in HRS §269-16(f)(3).

Thank you for the opportunity to submit this report. Should you have any questions regarding this matter, please contact me or Thomas C. Gorak, Chief Commission Counsel, at 586-2020.

Sincerely,



Hermina Morita  
Chair

HM:rs

Enclosure

c: Consumer Advocate (w/o enclosure)  
J. Douglas Ing, Esq.,/Pamela J. Larson, Esq.,/Wray H. Kondo, Esq. (w/o enclosure)



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAII WATER SERVICE COMPANY, INC. )  
For a General Rate Increase for Its )  
Pukalani Wastewater District. )  

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Docket No. 2011-0148  
Decision and Order No. **31810**

DECISION AND ORDER

By this Decision and Order, the commission adopts Proposed Decision and Order No. 31760, filed on December 23, 2013 ("Proposed Decision and Order") as its Decision and Order in this proceeding, with the revision to the third phase-in rate for the Pukalani Elementary School as recommended by the Parties<sup>1</sup> in their January 2, 2014 filings.

I.

Background

In the Proposed Decision and Order, the commission approved a general rate increase of \$586,352, or approximately

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<sup>1</sup>The "Parties" to this proceeding are HAWAII WATER SERVICE COMPANY, INC. ("HWSC"), the applicant, and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). No persons moved to intervene or participate without intervention in this proceeding. See Hawaii Administrative Rules § 6-61-57(1).

107.1% over revenues at present rates for HWSC, based on a total revenue requirement of \$1,133,937 for the July 1, 2011 to June 30, 2012 test year ("Test Year"), consisting of \$933,120 in total operating expenses including depreciation and taxes, and \$200,817 in operating income based on a stipulated 8.00% rate of return on HWSC's stipulated rate base of \$2,510,216.<sup>2</sup> In so doing, the commission approved the "Stipulation in Lieu of Evidentiary Hearing," jointly filed by HWSC and the Consumer Advocate on December 20, 2012 (the "Final Stipulation").<sup>3</sup> Among other things, the commission specifically approved the Parties' stipulation to implement the increase in the monthly sewer assessment fees charged to HWSC's residential and commercial customers, under a three-year phase-in plan.

In addition, the commission instructed the Parties to notify the commission, within ten days of the date of the Proposed Decision and Order as to whether they each accept, in toto, or do not accept, in whole or in part, the Proposed Decision and Order, as mandated by Hawaii Revised Statutes ("HRS") § 269-16(f)(3).<sup>4</sup> The commission also directed HWSC to promptly

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<sup>2</sup>See Proposed Decision and Order at 70.

<sup>3</sup>See id.

<sup>4</sup>See id.

file its revised tariff sheets and rate schedules for the commission's review and approval.<sup>5</sup>

By letter dated and filed January 2, 2014, HWSC notified the commission that it accepts the Proposed Decision and Order, with one exception ("HWSC's Acceptance Letter")<sup>6</sup> and, concurrently, submitted its revised tariff sheets and rate schedules pursuant to the commission's directive. According to HWSC, while preparing its revised tariff pages, it realized that the Final Stipulation contained an error with respect to the third phase-in rate for the Pukalani Elementary School. Specifically, HWSC explains as follows:

HWSC proposed to increase the rates for Pukalani Elementary School and the Community Center at twice the percentage increase to other customers. (Proposed Decision and Order at 56). In order to implement the proposed rate increase so as to avoid over-collection, the percentage increase for Pukalani Elementary School and the Community Center for Phase 3 was intended to be the same as for the other customers (16%) rather than double the rate for other customers. In the Stipulation, the percent increase for the Community Center for Phase 3 is 16%, as intended, but because of a coding error in the spreadsheet, the increase for Pukalani Elementary School is 38%, the percentage applied to Pukalani Elementary School in Phase 2. The rate for Pukalani Elementary School for Phase 3 should be revised from \$903.21 per month to \$758.16 per month, which is a 16% increase. A revised Exhibit A, Schedule 11 is attached. As shown on Schedule 11, this change

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<sup>5</sup>See id.

<sup>6</sup>See HWSC's Acceptance Letter at 1.

will result in the collection of slightly less revenue than authorized by the Commission in the Proposed Decision and Order. HWSC is willing to accept this reduced revenue in Phase 3.

HWSC's Acceptance Letter at 1 (emphasis added).

Similarly, by letter dated and filed on January 2, 2014, the Consumer Advocate notified the commission that it accepts the Proposed Decision and Order in toto, with the recommendation that the commission adopt the correction for the third phase-in rate for the Pukalani Elementary School, as referred to by HWSC in its filing.

## II.

### Discussion

In general, the Parties have accepted the Proposed Decision and Order. The only exception is with the rate to be charged to the Pukalani Elementary School during the third-phase of the rate increase. According to HWSC, the mistake resulting in a 38% increase as opposed to a 16% increase for the Pukalani Elementary School for the third-phase of the increase (which was agreed to between the Parties, and later approved by the commission) occurred during a coding error.<sup>7</sup> HWSC states that: (1) the rate for the Pukalani Elementary School

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<sup>7</sup>See id.

for phase-three should revised from \$903.21 per month to \$758.16 per month; (2) the change will result in the collection of slightly less revenues than authorized by the commission in the Proposed Decision and Order; and (3) HWSC is willing to accept the reduced revenues in phase-three.<sup>8</sup> The Consumer Advocate agrees with HWSC's rate correction and recommends that the commission adopt HWSC's revision to the third phase-in rate for the Pukalani Elementary School. Upon review, the commission finds the Parties' assessment regarding the third phase-in rate for the Pukalani Elementary School to be reasonable and appropriate and, thus, adopts the revision to the rate as recommended by the Parties.

Given the above, the Parties are not entitled to a contested case hearing and HRS § 269-15.5, governing the appeal of commission decisions, does not apply. The commission hereby adopts the Proposed Decision and Order as its Decision and Order in this proceeding, with the revision to the third phase-in rate for the Pukalani Elementary School as recommended by Parties in their January 2, 2014 filings.

In addition, finding that HWSC's revised tariff sheets and rate schedules are in compliance with the Proposed Decision and Order, with the exception noted above, the commission approves

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<sup>8</sup>See id.

HWSC's revised tariff sheets and rate schedules, effective as of the date of this Decision and Order. This decision is based on the commission's review of HWSC's filings and its representations.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. The Proposed Decision and Order, filed on December 23, 2013, is adopted as the commission's Decision and Order in this proceeding, with the revision to the third phase-in rate for the Pukalani Elementary School as recommended by Parties in their January 2, 2014 filings.

2. HWSC may increase its rates to produce additional revenues of \$586,352, or approximately 107.1%, over revenues at present rates, as shown on Exhibit A attached to the commission's Proposed Decision and Order, representing an increase in HWSC's revenue requirement to \$1,133,937 for the Test Year, based on a stipulated 8.00% rate of return on HWSC's stipulated average rate base for the Test Year.

3. HWSC's revised tariff sheets and rate schedules, submitted on January 2, 2014, are approved, effective as of the date of this Decision and Order. HWSC shall promptly re-file its new revised tariff sheets and rate schedules consistent

with this Decision and order, with the applicable issued and effective dates.

4. The failure to comply with Ordering Paragraph No. 3, above, may constitute cause to void this Decision and Order, and may result in further regulatory action as authorized by law.

5. Upon HWSC's compliance with Ordering Paragraph No. 3, this docket will be considered closed unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii JAN 14 2014.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By *Hermina Morita*  
Hermina Morita, Chair

By *Michael E. Champley*  
Michael E. Champley, Commissioner

APPROVED AS TO FORM:

*Ji Sook Kim*  
Ji Sook Kim  
Commission Counsel

By *Lorraine H. Akiba*  
Lorraine H. Akiba, Commissioner

2011-0148.sr

CERTIFICATE OF SERVICE

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

JEFFREY T. ONO  
EXECUTIVE DIRECTOR  
DIVISION OF CONSUMER ADVOCACY  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
P. O. Box 541  
Honolulu, Hawaii 96809

J. DOUGLAS ING, ESQ.  
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Honolulu, Hawaii 96813

Attorneys for HAWAII WATER SERVICE COMPANY, INC.



TABLE OF CONTENTS

I. Background . . . . . 2

    A. HWSC's Pukalani Wastewater District. . . . . 2

    B. HWSC's Requests . . . . . 5

    C. Procedural Background . . . . . 7

    D. Public Hearing Process . . . . . 10

    E. Issues . . . . . 11

    F. Parties' Final Stipulation . . . . . 12

II. Discussion . . . . . 14

    A. Summary of the Parties' Final Stipulation. . . . . 17

    B. Operating Revenues . . . . . 17

        1. Residential Revenues . . . . . 19

        2. Government Revenues. . . . . 19

        3. Commercial Revenues. . . . . 21

        4. Effluent Revenues. . . . . 21

        5. Total Revenues at Present Rates. . . . . 22

    C. Operating Expenses. . . . . 22

        1. O&M Expenses . . . . . 24

            a. Labor. . . . . 25

            b. Fuel and Power . . . . . 27

            c. Chemicals. . . . . 27

            d. Waste Disposal . . . . . 28

            e. Affiliate Charges. . . . . 29

            f. Professional and Outside Services . . . . . 30

            g. Repair and Maintenance . . . . . 31

            h. Insurance. . . . . 32

            i. Regulatory . . . . . 33

            j. General and Administrative . . . . . 34

            k. Miscellaneous and Other. . . . . 35

        2. Taxes. . . . . 36

            a. Taxes Other Than Income Tax ("TOTIT") . . . . . 36

            b. Income Taxes . . . . . 36

        3. Depreciation . . . . . 37

        4. Total Operating Expenses . . . . . 38

    D. Rate Base . . . . . 39

        1. Net Plant-in-Service. . . . . 40

        2. CIAC. . . . . 45

        3. Accumulated Deferred Taxes. . . . . 46

        4. HCGETC. . . . . 48

5.	Working Cash . . . . .	.48
6.	ARO . . . . .	.50
7.	Prorated General Office . . . . .	.51
E.	Rate of Return . . . . .	.52
F.	Rate Design. . . . .	.56
G.	Tariff Changes . . . . .	.64
1.	PCAC. . . . .	.64
2.	Addition of "Multi-Family" Description . . . . .	.65
3.	Deletion of "Government/Education" and "Government/Recreation" Customer Designations . . . . .	.65
H.	Request for Interim Rates. . . . .	.66
III.	Summary of Findings and Conclusions. . . . .	.67
IV.	Acceptance or Non-Acceptance . . . . .	.68
V.	Orders . . . . .	.70
	Exhibit A	



the July 1, 2011 to June 30, 2012 test year, consisting of \$933,120 in total operating expenses including depreciation and taxes, and \$200,817 in operating income based on a stipulated 8.00% rate of return on HWSC's stipulated rate base of \$2,510,216. In so doing, the commission approves the "Stipulation in Lieu of Evidentiary Hearing," jointly filed by HWSC and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY<sup>2</sup> ("Consumer Advocate") (collectively, the "Parties"), on December 20, 2012 (the "Final Stipulation"), as described herein.

The commission, in approving the Parties' Final Stipulation, authorizes an increase in the monthly sewer assessment fee charged to HWSC's residential and commercial customers, under a three-year phase-in plan.

I.

Background

A.

HWSC's Pukalani Wastewater District

HWSC, a Hawaii corporation, is a public utility that provides wastewater collection and treatment services to

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<sup>2</sup>The Consumer Advocate is, ex officio, a party to this docket pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. No other persons moved to intervene or participate without intervention in this docket.

residential and commercial customers located in its service area of Pukalani, island of Maui.<sup>3</sup> The commission issued Pukalani STP Co., Ltd. ("Pukalani STP"), HWSC's predecessor, a CPCN to provide wastewater collection and treatment service in the Pukalani area in June 1989, pursuant to HRS § 269-7.5(b).<sup>4</sup>

HWSC's current Pukalani service territory includes approximately 810 residential and commercial customers, located on the lower slopes of Haleakala.<sup>5</sup> HWSC's residential customer base consists of single-family dwellings and three multi-family customers, consisting of approximately ninety units.<sup>6</sup> HWSC's eight commercial customers include two shopping centers, a park, pool, County of Maui community center, and two schools

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<sup>3</sup>HWSC also has a certificate of public convenience and necessity ("CPCN") from the commission to provide potable water service in Kaanapali, Maui. See Application at 3. See also Decision and Order No. 6230, filed on June 9, 1980, in Docket No. 3700.

<sup>4</sup>See In re Pukalani STP Co., Ltd., Decision and Order No. 10264, filed on June 30, 1989, in Docket No. 6210. Pursuant to the Decision and Order filed on June 12, 2008, in Docket No. 2007-0238, the commission approved the transfer of Pukalani STP's CPCN to HWSC. By that same Decision and Order, the commission also approved the financing arrangements for the replacement of Pukalani STP's wastewater treatment plant in order to accommodate the planned growth in the service area and to service existing customers.

<sup>5</sup>See Application at 3.

<sup>6</sup>See id.

(one a public elementary school).<sup>7</sup> In 2010, HWSC received approval to expand its service territory to include the Kauhale Lani residential subdivision, which consists of approximately 170 residential lots.<sup>8</sup>

HWSC's system in Pukalani includes a network of sewer and force mains, including two sewage pump stations to collect the wastewater, and a newly constructed membrane bioreactor ("MBR") wastewater treatment plant ("New WWTP"). The new plant produces R-1 quality effluent, which when treated is discharged into a two million gallon lake. The effluent, along with water from the irrigation well, is then pumped to the adjacent Pukalani Country Club Golf Course ("Golf Course") for irrigation use. HWSC is not proposing to increase its effluent rate in this proceeding.<sup>9</sup>

HWSC is a wholly owned subsidiary of California Water Service Group ("CWSG"), a Delaware holding company. Besides HWSC, CWSG's operating subsidiaries include California Water Service Company (water service); New Mexico Water Service Company (water and wastewater services);

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<sup>7</sup>See id.

<sup>8</sup>See In re Hawaii Water Service Company, Inc., and Pukalani Associates, LLC, Decision and Order, filed on June 17, 2010, in Docket No. 2009-0019.

<sup>9</sup>See Application at 3.

Washington Water Service Company (water and wastewater services); CWS Utility Services, a non-regulated subsidiary; and HWS Utility Services LLC, a non-regulated subsidiary. CWSG is a publicly traded company on the New York Stock Exchange.<sup>10</sup>

B.

HWSC's Requests

HWSC seeks the commission's approval of a net revenue increase of \$1,325,924, or approximately 224.7%, over revenues at present rates, to be phased-in over a three-year period.<sup>11</sup> The requested increase is based on an estimated total revenue requirement of \$1,928,848 for the July 1, 2011 to June 30, 2012 test year ("test year"), and an 8.19% rate of return on HWSC's average Test Year rate base of \$6,585,172.<sup>12</sup>

HWSC makes its request pursuant to: (1) HRS § 269-16(f); and (2) HAR § 6-61-88. HWSC states that: (1) its current rates do not now and will not in the foreseeable future produce sufficient revenues to allow it to earn a fair rate of return on its prudently incurred investment; (2) its predecessor in interest, Pukalani STP, did not seek any rate of return on rate base; and

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<sup>10</sup>See id. at 4.

<sup>11</sup>See id.

<sup>12</sup>See id., Exhibit HWSC 6.

(3) it recently completed and placed in service Phase I of the New WWTP at an estimated cost of \$9,500,000.

HWSC advises that for an annualized calendar year 2011, on a pro forma basis, it had revenues of approximately \$602,924 and a -2.89% rate of return for its Pukalani wastewater operations.<sup>13</sup> For the test year, HWSC projects revenues of approximately \$602,924 and a -3.49% rate of return at present rates.<sup>14</sup> In this proceeding, HWSC seeks to establish a rate base and to earn a reasonable return on rate base.

HWSC is proposing to increase its rates and charges incrementally as follows:

	Present Rate	Year 1 Proposed Rate/ (Percent Increase)	Year 2 Proposed Rate/ (Percent Increase)	Year 3 Proposed Rate/ (Percent Increase)
Residential (per month, per residence/unit)	\$32.22	\$64.05 (98.8%)	\$88.52 (38.2%)	\$112.78 (27.4%)
Commercial (per 1,000 gallons ("TGs") of water used)	\$2.7668	\$5.5336 (100%)	\$7.6883 (38.9%)	\$9.8431 (28.0%)
Government/Education (Pukalani Elementary School, per month)	\$263.78	\$791.34 (200%)	\$1,407.62 (77.9%)	\$2,196.62 (56.1%)
Government/Recreation (Hannibal Tavares Community Center, per month)	\$59.95	\$179.85 (200%)	\$319.91 (77.9%)	\$499.23 (56.1%)

<sup>13</sup>See id., Exhibit HWSC 9.

<sup>14</sup>See id., Exhibit HWSC 6.

Effluent Sales (per TGs)	\$0.55	No change	No change	No change
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See Application at 7-8.

HWSC also proposes to, among other things: (1) convert the University of Hawaii Institute for Astronomy Office of Facilities & Grounds ("UH-Astronomy") and the Police Resources Center ("Police Center") from the government customer class to the commercial class<sup>15</sup>; and (2) modify the terms of the Power Cost Adjustment Charge ("PCAC") to reflect HWSC's current electricity costs.

C.

Procedural Background

Initially, as part of its Application, HWSC attached unaudited financial statements for the five-month period ending May 31, 2011, which were labeled as HWSC's *Kaanapali* division.<sup>16</sup> In its statement filed on September 1, 2011, the Consumer Advocate noted that it was unclear whether the exhibits were mislabeled or whether HWSC *Kaanapali's* financial statements were mistakenly

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<sup>15</sup>See Letter from Wray H. Kondo, Esq., counsel to HWSC, dated and filed on September 27, 2011, at 1, indicating that HWSC plans to convert these customers to the commercial class upon completion of this rate case, resulting in "lower sewer fees for both customers."

<sup>16</sup>See Application, Exhibit HWSC 2, Schedule E.

submitted.<sup>17</sup> Taking the information at face value, however, the Consumer Advocate concluded that HWSC did not provide its Pukalani division's financial statements as required by HAR § 6-61-75(b) and that HWSC's Application was therefore incomplete.<sup>18</sup>

On September 2, 2011, HWSC corrected the error and submitted a revised Exhibit HWSC 2, Schedule E.<sup>19</sup> In its submission, HWSC confirmed that the only change was in the title of the exhibit from Kaanapali to Pukalani and that all financial information in the original schedule related to HWSC's Pukalani division.<sup>20</sup>

The commission found that HWSC's Application, as amended on September 2, 2011, was complete and properly filed pursuant to HRS § 269-16(f) and HAR §§ 6-61-86 and 6-61-88. Accordingly, the filing date of HWSC's completed Application, as amended, was determined to be September 2, 2011.<sup>21</sup>

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<sup>17</sup>See Consumer Advocate's Statement of Position Regarding Completeness of Application, filed on September 1, 2011, at 3.

<sup>18</sup>Id.

<sup>19</sup>See Hawaii Water Service Company, Inc.'s Revised Exhibit HWSC 2, Schedule E to the Application Filed on August 12, 2011, filed on September 2, 2011.

<sup>20</sup>See id. at 2.

<sup>21</sup>See Order Regarding Completed Application and Other Initial Matters, filed on September 16, 2011.

On October 13, 2011, the commission held a public hearing on HWSC's Application, at the Pukalani Elementary School Cafeteria, pursuant to HRS §§ 269-12(c) and 269-16(f)(2).

The Parties entered into a Stipulated Procedural Order on October 28, 2011, which was approved by the commission on November 8, 2011 ("Stipulated Procedural Order").

Pursuant to the Stipulated Procedural Order, the Parties engaged in discovery regarding HWSC's requests through written information requests ("IRs") and technical conferences.<sup>22</sup>

On February 8, 2012, the Consumer Advocate submitted its direct testimony and exhibits ("Direct Testimony", "CA-T-" or "CA-", as applicable). On February 22, 2012, the commission issued IRs upon HWSC, to which HWSC responded on March 15, 2012. The commission issued additional IRs on May 23, 2012, to which HWSC responded on June 4 and July 10, 2012.

On November 9, 2012, HWSC filed a copy of the Report on Cost of Service Allocations and Sewer Rate Design prepared by AUS Consultants (the "Cost of Service Study").

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<sup>22</sup>The Consumer Advocate issued IRs to HWSC between October 28, 2011, and November 16, 2011, and on November 16, 2011, the Consumer Advocate filed its First through Third Submission of IRs with the commission. HWSC submitted responses to the Consumer Advocate's IRs between November 15, 2011 and January 18, 2012. HWSC filed its responses to the Consumer Advocate's IRs on January 31, 2012, and February 2, 2012.

On November 30, 2012, the Parties jointly filed their Stipulation for Interim Rate Increase and Partial Settlement, supported by the Parties' worksheets, data, and other information.<sup>23</sup> By their Partial Settlement, the Parties indicate their agreement on all issues, except for the issues concerning and related to the New WWTP.

On December 20, 2012, the Parties filed their Stipulation in Lieu of Evidentiary Hearing, representing a global settlement of all issues in this proceeding.<sup>24</sup>

D.

#### Public Hearing Process

The commission's Notice of Public Hearing was published in The Maui News, in accordance with HRS § 269-16(c).<sup>25</sup> On September 30, 2011, HWSC notified its ratepayers of the upcoming public hearing, consistent with HRS § 269-12(c).<sup>26</sup>

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<sup>23</sup>Stipulation for Interim Rate Increase and Partial Settlement; Exhibits A, B, and C; and Certificate of Service, filed on November 30, 2012 ("Partial Settlement").

<sup>24</sup>Stipulation in Lieu of Evidentiary Hearing; Exhibits A and B; and Certificate of Service, filed on December 20, 2012 (i.e., the Final Stipulation).

<sup>25</sup>Specifically, the commission's Notice of Public Hearing was published on September 22 and 29, 2011, and October 6 and 12, 2011, in The Maui News.

<sup>26</sup>See Letter from Wray H. Kondo, Esq., HWSC's legal counsel, dated and filed on October 11, 2011.

At the public hearing, HWSC's representative and the Consumer Advocate orally testified and submitted written comments. Numerous ratepayers and a non-ratepayer also testified in-person. In general, the ratepayers opposed or expressed concerns with HWSC's proposed rate increases, or the magnitude and impact of the increases.

E.

Issues

The issues in this proceeding, as set forth in the Parties' Stipulated Procedural Order, approved by the commission on November 8, 2011, are as follows:

1. Are HWSC's proposed rate increases reasonable?
  - a. Are the proposed tariffs, rates, and charges just and reasonable?
  - b. Are the revenue forecasts for the test year (July 1, 2011 through June 30, 2012) at present 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?
2. Should the commission approve HWSC's request to modify the terms of Exhibit B of its

Pukalani Tariff, PCAC, to reflect the cost of power currently in effect?

3. Should HWSC be granted other relief as may be just and reasonable under the circumstances?

See Stipulated Procedural Order at 3.

F.

Parties' Final Stipulation

The Final Stipulation reflects the Parties' global settlement of all the issues. In reaching their agreement, the Parties note:

1. The provisions of the Final Stipulation are binding as between them with respect to specific issues and matters to be resolved in this proceeding.<sup>27</sup>
2. The Parties reserve their respective rights to proffer, use, and defend different positions, arguments, methodologies, or claims regarding the matters stipulated to herein in other dockets or proceedings, except as otherwise specifically agreed to in the Final Stipulation.<sup>28</sup>
3. Each provision of the Final Stipulation is in consideration and support of all other provisions, and is expressly conditioned upon the commission's acceptance of the Final Stipulation in its entirety.<sup>29</sup>

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<sup>27</sup>See Final Stipulation at 3.

<sup>28</sup>See id. at 4.

<sup>29</sup>See id. at 30.

"In the event the Commission declines to adopt parts or all of the matters agreed to by the Parties and as set forth in this Stipulation, the Parties reserve the right to pursue any and all of their respective positions through further negotiations and/or additional filings and proceedings before the Commission[.]"<sup>30</sup>

4. "[T]he Commission may take such steps and actions deemed necessary and appropriate to facilitate its review of this Stipulation, and to determine whether this Stipulation should be approved[.]"<sup>31</sup>

The Parties also acknowledge that their Final Stipulation is subject to the commission's review and approval, and that the commission is not bound by the Final Stipulation.<sup>32</sup>

In this regard, it is well-settled that an agreement between the parties in a rate case cannot bind the commission, as the commission has an independent obligation to set fair and just rates and arrive at its own conclusion. In re Hawaiian Elec. Co., Inc., 5 Haw. App. 445, 698 P.2d 304 (1985). With this mandate, the commission proceeds in reviewing the justness and reasonableness of the provisions of the Parties' Final Stipulation.

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<sup>30</sup>Id.

<sup>31</sup>Id.

<sup>32</sup>See id. at 3.

II.

Discussion

HWSC, a public utility with annual gross revenues of less than \$2 million, filed its Application under HRS § 269-16(f). This section of the law streamlines the rate review process for small public utilities such as HWSC. In short, it requires the commission to make every effort to issue its Proposed Decision and Order within six months from the filing date of HBWC's complete 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).

Specifically, section 269-16(f) states, in relevant part:

Notwithstanding any law to the contrary, for public utilities having annual gross revenues of less than \$2,000,000, the commission may make and 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. In the determination of the reasonableness of the proposed rates, the commission shall:

- ...
- (2) Hold a public hearing as prescribed in section 269-12(c) at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The public hearing shall be preceded by proper notice, as prescribed in section 269-12; and

- (3) Make every effort to complete its deliberations and issue a proposed decision and order within six months from the date the public utility files a completed application with the commission; provided that all parties to the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene. If a proposed decision and order is rendered after the six-month period, the commission shall report in writing the reasons therefor to the legislature within thirty days after rendering the proposed decision and order. Prior to the issuance of the commission's proposed decision and order, the parties shall not be entitled to a contested case hearing.

If all parties to the proceeding accept the proposed decision and order, the parties shall not be entitled to a contested case hearing, and section 269-15.5 shall not apply. If 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).

If a party does not accept the proposed decision and order, either in whole or in part, that party shall give notice of its objection or nonacceptance within the timeframe prescribed by the commission in the proposed decision and order, setting forth the basis for its objection or nonacceptance; provided that the proposed decision and order shall have no force or effect pending the commission's final decision. If notice is filed, the above 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 as set forth in

subsection (d). Any party that does not accept the proposed decision and order under this paragraph shall be entitled to a contested case hearing; provided that the parties to the proceeding may waive the contested case hearing.

Public utilities subject to this subsection shall follow the standard chart of accounts to be approved by the commission for financial reporting purposes. The public utilities shall file a certified copy of the annual financial statements in addition to an updated chart of accounts used to maintain their financial records with the commission and consumer advocate within ninety days from the end of each calendar or fiscal year, as applicable, unless this timeframe is extended by the commission. The owner, officer, general partner, or authorized agent of the utility shall certify that the reports were prepared in accordance with the standard chart of accounts.

HRS § 269-16(f) (emphasis added). The commission issues this Proposed Decision and Order in accordance with the provisions of HRS § 269-16(f).<sup>33</sup>

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<sup>33</sup>Throughout this proceeding, HWSC requested and was granted numerous extensions of procedural deadlines. See e.g., Order No. 30017 Granting Hawaii Water Service Company, Inc.'s Extension Request, Filed on December 6, 2011, filed on December 14, 2011; Order No. 30297 Granting Hawaii Water Service Company, Inc.'s Third, Fourth, and Fifth Extension Requests, Filed on March 5, 9, and 23, 2012, filed on April 4, 2012; and Order No. 30688 Granting Hawaii Water Service Company, Inc.'s Tenth Extension Request, Filed on September 27, 2012, filed on October 12, 2012.

A.

Summary of the Parties' Final Stipulation

The Parties stipulate to a revenue requirement of \$1,133,937 for the test year, consisting of \$933,120 in total operating expenses including depreciation and taxes, and \$200,817 in operating income based on a stipulated 8.00% rate of return on HWSC's stipulated rate base of \$2,510,216. The Stipulation results in a revenue increase of \$586,352 in revenues over present rates, or approximately 107.1%. The Parties agree that the Final Stipulation provides HWSC with the opportunity to recover its operating expenses and operating income under the settlement terms.<sup>34</sup>

B.

Operating Revenues<sup>35</sup>

The Parties stipulate to the sales and revenue amount at present rates as set forth in the Partial Settlement. The Parties further stipulate to the sales and revenue amounts at proposed rates as set forth in the Final Stipulation.<sup>36</sup>

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<sup>34</sup>See Final Stipulation at 4.

<sup>35</sup>With respect to this and other rate-related items, due to rounding, minor discrepancies may exist between certain figures in the record and the commission Proposed Decision and Order and accompanying exhibits.

<sup>36</sup>See Final Stipulation at 26

HWSC charges three types of rates for the utility services it provides: (1) a flat-rate charged to residential customers and government customers; (2) a quantity rate charged to commercial customers based on the amount of water consumed by the customer; and (3) an effluent rate charged to the Golf Course for the sale of effluent, used for irrigation.<sup>37</sup>

The Parties stipulate to the Consumer Advocate's adjustments and estimates of test year revenues at present rates of \$547,585.04, including \$28,967 from the Power Cost Adjustment, and customer count for each class as follows:

<u>Customer Class</u>	<u>No. of Customers</u>	<u>Revenues at Present Rates</u>
Residential	871	\$336,763.44
Commercial	12	141,596.52
Government/Education	1	3,165.36
Government/Recreation	1	719.40
Effluent	1	36,373.04
Power Cost Adjustment		<u>28,967.28</u>
Total revenues, present rates		\$547,585.04

See Partial Settlement at 12. See also Final Settlement, Exhibit A, Schedule 8.1.

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<sup>37</sup>See Partial Settlement at 9.

1.

Residential Revenues

For HWSC's residential revenues, the Consumer Advocate, using a three-year customer count average of 871 customers, recommended increasing the projected revenues at present rates to \$336,763.<sup>38</sup> In settlement, HWSC agreed with the Consumer Advocate's proposal. The commission finds reasonable the Parties' stipulated residential customer count and resulting revenues at present rates.

2.

Government Revenues

In its Application, HWSC proposed to reclassify two public authority customers for the test year: the UH-Astronomy and the Police Center, which were mistakenly added to the Government/Education and Government/Recreation customer classes instead of being designated as commercial customers.<sup>39</sup> As a result of the reclassification, HWSC will have two government customers remaining for the test year: Pukalani Elementary School

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<sup>38</sup>See id. at 12. 871 customers x \$32.22 present rate = \$336,763.44 revenue at present rates.

<sup>39</sup>See Application, Exhibit HWSC-T-100 at 21-22.

("Pukalani Elementary") and the County of Maui's Community Center ("Community Center").

While HWSC acknowledged that these two customers are not paying the true cost of providing wastewater service, it believed that converting the Pukalani Elementary and Community Center directly to commercial rates would expose the two entities to rate shock. For example, HWSC estimated that if Pukalani Elementary was billed at the commercial rate, its monthly bill would result in a 951% increase over the current flat rate. As a result, HWSC proposed to increase the flat rate to these government customers by double the percentage increase proposed for the other customer classes.

The Consumer Advocate did not object to HWSC's projected test year revenues at present rates from government customers of \$3,885, stating an interest to minimize rate shock to government customers.<sup>40</sup> The commission finds reasonable the reclassification of two customers from the government class to the commercial class, the resulting customer count, and the revenues at present rates from the government class customers.

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<sup>40</sup>See CA-T-1 at 17. See also Partial Settlement at 12. Specially, \$263.78 x 12 months = \$3,165.36 for Government/Education and \$59.95 x 12 months = \$719.40 for Government/Recreation.

3.

Commercial Revenues

The Parties agree that HWSC's projected test year revenues at present rates for commercial customers of \$141,597 is reasonable.<sup>41</sup> HWSC originally projected test year revenues at present rates of \$191,427, based on water usage of 69,187,000 gallons.<sup>42</sup> While collecting data for its consultant to perform the Cost of Service Study, HWSC determined that the actual test year water usage was 51,177,000 gallons, less than its projected water usage of 69,187,000 gallons included in its Application. After reviewing the actual test year data, the Parties adjusted the projected test year revenues at present rates for commercial customers to \$141,597, which the commission finds reasonable.

4.

Effluent Revenues

HWSC's projected test year effluent revenues of \$43,428 at present rates, based on test year effluent sales of 78,960,000 gallons.<sup>43</sup> The Consumer Advocate proposed using a three-year

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<sup>41</sup>See Partial Settlement at 11. See also HWSC's Exhibits HWSC 8.1 and 8.2.

<sup>42</sup>See Application, Exhibit HWSC 8.1.

<sup>43</sup>See id., Exhibit HWSC 8.1 and HWSC 11.

average of effluent sales, or 67,933,000, as the basis for test year effluent sales, resulting in effluent sales at present rates of \$37,363.<sup>44</sup> Again, while collecting data for the Cost of Service Study, HWSC was able to obtain actual test year effluent sales of 66,132,795 gallons. Based on this information, the Parties stipulate to effluent revenues at present rates of \$36,373 for the test year.<sup>45</sup> The commission finds the Parties' stipulated amount for effluent revenues at present rates to be reasonable.

5.

Total Revenues at Present Rates

In sum, the commission finds reasonable the Parties' stipulated amount of \$547,585 in revenues at present rates, as discussed in detail above.

C.

Operating Expenses

HWSC's expenses can be grouped into three distinct categories: (1) operating and maintenance ("O&M") expenses; (2) taxes (i.e., taxes other than income taxes and income taxes); and (3) depreciation.

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<sup>44</sup>See CA-T-1 at 21-22. See also CA-107.

<sup>45</sup>See Partial Settlement at 12.

For this proceeding, HWSC proposes to use a Four Factor Allocation Method to allocate shared costs among its water and wastewater systems that it directly or through its subsidiaries owns and operates.<sup>46</sup> The shared costs are organized into four separate expense pools for allocation: Department 790, Hawaii General Office (allocated to all systems); Department 796, Wastewater Administration (to be allocated to the wastewater business units); Department 710, Maui labor and other costs (to be allocated to Maui systems); and Department 720 Big Island labor and other costs (to be allocated to the Hawaii Island systems). The Consumer Advocate did not object in this proceeding to the use of the four-factor allocation methodology described by HWSC to share costs by its Hawaii business units.<sup>47</sup> The Parties further agree to use substantially the same methodology to allocate shared expenses in future rate cases concerning its HWSC's business units.<sup>48</sup>

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<sup>46</sup>HWSC owns and operates two systems on Maui and seven systems on Hawaii island: Kaanapali Water, Pukalani Wastewater, Waikoloa Water, Waikoloa Wastewater, Waikoloa Resort Water, Waikoloa Resort Wastewater, Waikoloa Resort Irrigation, Kona Water, and Kona Wastewater. See Application, HWSC-T-100 at 5-6.

<sup>47</sup>See Partial Settlement at 14.

<sup>48</sup>See id.

The commission finds reasonable the use and application of HWSC's allocation methodology for this proceeding.<sup>49</sup>

1.

O&M Expenses

The Parties agree on the following O&M expense amounts for the test year (Partial Settlement, Exhibit A, Schedule 6; Final Stipulation, Exhibit A, Schedule 6):

<u>O&amp;M Expenses</u>	<u>Present Rates</u>
Labor	\$243,083
Fuel and Electricity	219,406
Chemicals	18,000
Waste Disposal	40,369
Affiliated Charges	2,396
Professional Services	9,000
Repairs & Maintenance	34,808 <sup>50</sup>
Insurance	3,875
Regulatory	19,400 <sup>51</sup>

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<sup>49</sup>The commission makes clear that its approval to utilize HWSC's allocation methodology is solely limited to this rate case (Docket No. 2011-0148), and that any other future rate case involving HWSC's other business units is beyond the scope of this proceeding.

<sup>50</sup>The repairs and maintenance expense amount reflects the Consumer Advocate's adjusted amount of \$62,176, as further adjusted during settlement discussions to remove amounts that the Consumer Advocate noted were already included in waste and sludge expense.

<sup>51</sup>In settlement discussions, HWSC proposed a test year regulatory expense of \$13,600, based upon updated legal fees of \$68,000 amortized over five years, to which the Consumer Advocate agreed. The Parties also included the cost of the Cost of Service Study, \$29,000, in test year regulatory expense, amortized over the same five-year period.

General & Administrative	5,274 <sup>52</sup>
Miscellaneous	<u>21,431</u>
Total:	\$617,042

In general, the above-referenced amounts (excluding regulatory expense) represent the normalized level of expenses HWSC would incur during the test year to operate its facilities and provide wastewater collection and treatment services to its ratepayers. Regulatory expense, meanwhile, represents the reasonable amount of expenses incurred by HWSC to process this rate case, as agreed upon by the Parties, amortized over a five-year period.

a.

Labor

Labor expense is comprised of the following expenses: Payroll \$146,693; Employee Benefits \$83,054; and Payroll Taxes \$13,336, for total labor expense of \$243,083.<sup>53</sup>

The payroll expense represented above is neither HWSC's original payroll expense amount, nor the Consumer Advocate's adjusted expense amount. During settlement discussions,

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<sup>52</sup>This expense reflects the Consumer Advocate's adjusted amount of \$4,074, plus \$1,200 agreed to by the Parties to reflect sales taxes that were not included in the Chemicals Expense category.

<sup>53</sup>See Partial Settlement at 15-16.

HWSC argued that its salaries are comparable to those paid by the County of Hawaii and provided additional information to the Consumer Advocate regarding the comparability between salaries paid by HWSC and those paid by the County of Hawaii. Based on that information, the Parties agreed to reduce HWSC's salaries based on a factor that represents the difference between HWSC's salaries and average County of Hawaii salaries for comparable positions.

The employee benefits amount was based upon the methodology agreed to by the Parties in HWSC's Kaanapali rate case (i.e., Docket No. 2009-0310). HWSC's methodology was based on the fact that according to Hawaii labor laws, HWSC must pay at least one-half of any employee's health insurance premium cost, but can charge the employees no more than 1.5% of their wages.<sup>54</sup> Based upon this methodology, the Consumer Advocate projected test year employee benefit expense of \$83,054, to which HWSC agreed.

The payroll tax amount reflects a compromise amount, since HWSC did not include an amount for payroll taxes in its revenue requirement in its Application. The Parties stipulated to a payroll tax expense of \$13,336, based upon the agreed upon adjustment to payroll expense.<sup>55</sup>

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<sup>54</sup>See generally, HRS chapter 393, Prepaid Health Care Act.

<sup>55</sup>See Partial Settlement at 16.

Based on the overall agreement of the Parties on these labor expense issues, the commission finds reasonable the Parties' stipulated amount for labor expenses of \$243,083 at present rates.

b.

Fuel and Power

In its Application, HWSC proposed a fuel and electricity amount of \$176,598. The Consumer Advocate, using annualized data from June through October 2011 to reflect increased energy amounts used by HWSC's new plant, suggested an expense amount of \$223,643. Based upon updated electricity usage data, the Parties stipulated to a test year expense amount of \$219,406.<sup>56</sup> The commission finds reasonable the methodology used by the Parties to calculate the fuel and power expense of \$219,406 and, thus, finds the Parties' stipulated amount for fuel and power at present rates to be reasonable.

c.

Chemicals

HWSC proposed a test year chemicals expense of \$9,500, which was based on an estimated 75% reduction in chemical use in

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<sup>56</sup>See id. at 17-18.

the New WWTP.<sup>57</sup> However, HWSC advised that its actual chemical expense for January through October 2011 was \$15,050. The Parties agreed to base the test year expense amount on actual chemical expenses, as annualized. Accordingly, the Parties stipulated to \$18,000 for chemical expense at present rates,<sup>58</sup> which the commission finds reasonable.

d.

Waste Disposal

In its Application, HWSC projected waste disposal expenses of \$40,369.<sup>59</sup> In its Direct Testimony, HWSC demonstrated that it actually spent approximately \$45,000 from January through July 2011, which would be approximately \$90,000 if annualized. However, HWSC explained that it expected this cost to decrease in the test year due to the change in the belt line that reduces the frequency needed to dispose of waste. Accordingly, HWSC estimated the test year expense to be \$3,300 per month, or

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<sup>57</sup>See Application, Exhibit HWSC 8.8. See also Application, Exhibit HWSC-T-200 at 5.

<sup>58</sup>See Partial Settlement at 19.

<sup>59</sup>See Application, Exhibit HWSC 8.9.

\$40,369 for the test year.<sup>60</sup> The Consumer Advocate recommended using HWSC's originally forecasted amount of \$40,369.<sup>61</sup>

The commission finds reasonable the Parties' stipulated amount of \$40,369 for test year waste disposal expense at present rates.

e.

Affiliate Charges

The Parties stipulate to reflect HWSC's share of expenses for CWSG, including board of director costs, officers' wages and benefits, information systems, human resources, accounting relating to public reporting, corporate communications, corporate financing, internal audit, legal counsel, risk management, annual audit and income tax service costs, director and Securities and Exchange Commission and annual filing costs, as well as corporate officer and staff training and development. This methodology is consistent with the Parties' stipulation in HWSC's Kaanapali rate case, Docket No. 2009-0310. The Consumer Advocate agreed with the expenses, as adjusted to remove a 10% escalation factor originally included by HWSC.

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<sup>60</sup>See id., Exhibit HWSC-T-200 at 5-6.

<sup>61</sup>See CA-T-2 at 14.

Therefore, the Parties stipulate to a test year affiliated charges expense of \$2,396.<sup>62</sup>

The commission finds reasonable the Parties' stipulated estimate of \$2,396 in affiliated charges at present rates for the test year.

f.

Professional and Outside Services

In its Application, HWSC proposed to include a professional and outside services expense amount of \$14,500 (\$10,000 for legal fees and \$4,500 for other expenses).<sup>63</sup> The Consumer Advocate recommended removing approximately \$13,000 from this expense category in its Direct Testimony.<sup>64</sup> During negotiations, HWSC proposed professional and outside services expense of \$9,000 (\$7,500 for legal expenses and \$1,500 for other expenses) for the test year.<sup>65</sup> HWSC explained that it

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<sup>62</sup>See Partial Settlement at 20.

<sup>63</sup>See Application, Exhibit HWSC 8.11. See also Partial Settlement at 20.

<sup>64</sup>Removal of \$3,000 for depreciation study expense which the Consumer Advocate recommends not being implemented during the test year, and \$10,000 related to legal expenses related to non-regulated activities and matters that should have been charged to affiliated expenses. See CA-T-2 at 11-13.

<sup>65</sup>See Partial Settlement at 21.

incurred \$6,000 in legal fees from June 2011 through February 2012 related to its operations in Pukalani (expenses which HWSC expects to continue) and provided details related to miscellaneous expenses associated with security and computer consulting services amounting to \$7,250 in 2011.<sup>66</sup> Based on this information, the Parties agreed to \$9,000 in professional and outside services expense for the test year.<sup>67</sup>

Upon review, the commission finds reasonable \$9,000 in professional and outside services expense for the test year, as stipulated to by the Parties.

g.

Repair and Maintenance

Initially, HWSC proposed a test year repair and maintenance expense amount of \$61,986. This test year amount was based on a three year average of costs for 2008-2010 and the removal of \$150,000 from the projected expenses in 2011 related to the flushing program which HWSC intends to do in-house. The Consumer Advocate recommended that the test year expense be based on 2011 costs since the New WWTP was placed into service in December 2010, adjusted for the costs related to the flushing

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<sup>66</sup>See id.

<sup>67</sup>See id.

program (i.e., removal of \$150,000), resulting in a test year repair and maintenance expense amount of \$62,176.<sup>68</sup> During settlement negotiations, the Consumer Advocate proposed an additional \$27,718 downward adjustment to this expense item since this amount of costs was represented in the waste disposal expense item.<sup>69</sup> The Parties ultimately agreed to a test year repair and maintenance expense amount of \$34,808.<sup>70</sup>

Given the above, the commission finds reasonable the Parties' stipulated amount of \$34,808 in repair and maintenance expense for the test year.

h.

#### Insurance

In its Application, HWSC proposed insurance expense of \$3,875 for the test year. This amount was based on HWSC's allocated share of the quoted cost for insurance provided to CWSG, HWSC's parent, by its insurer Marsh Insurance. The Consumer Advocate made no adjustments to HWSC's test year insurance expense amount. The Parties stipulate to insurance

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<sup>68</sup>See CA-T-2 at 17. See also Exhibit CA-208.

<sup>69</sup>See Partial Settlement at 22.

<sup>70</sup>See id., Exhibit A, Schedule 8.12.

expense of \$3,875 for the test year at present rates,<sup>71</sup> which the commission finds reasonable.

i.

Regulatory

At the outset, HWSC proposed test year regulatory expenses of \$28,167. This amount is derived by amortizing HWSC's total regulatory expense amount of \$84,500 over three years. The Consumer Advocate, in its Direct Testimony, proposed a reduction in the total amount by \$25,000 for expenses projected for hearing and briefing activities on the grounds that these events do not generally occur in this type of proceeding, and recommended that the total cost be amortized over five years.<sup>72</sup> These adjustments result in the reduction of HWSC's proposed test year regulatory expense amount to \$11,900. In settlement discussions, HWSC proposed test year regulatory expenses of \$13,600, based on updated legal fees of \$68,000 as of February 2012, amortized over five years.<sup>73</sup> The Consumer Advocate agreed to accept HWSC's revised amount. In addition, the Parties agreed to include \$29,000 paid by HWSC to AUS Consultants for the Cost of

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<sup>71</sup>See id. at 22.

<sup>72</sup>See CA-T-2 at 18-19.

<sup>73</sup>See Partial Settlement at 22.

Service Study and related travel expenses (conducted to address articulated concerns) as rate case expense, amortized over five years.<sup>74</sup> With the updated information, the Parties agree to a regulatory expense amount of \$19,400 for the test year.<sup>75</sup>

The commission finds the Parties' stipulated amount of \$19,400 in regulatory expenses for the test year at present rates to be reasonable.

j.

General and Administrative

HWSC had initially proposed a test year general and administrative expense amount of \$35,336. This figure consists of \$13,746 for general (day-to-day) office supplies and \$21,590 for miscellaneous and other general expenses. Due to lack of support, the Consumer Advocate recommended that the test year expense for general office supplies be based on the 2011 expense amount of \$4,074. HWSC agreed to this adjustment. Later, during settlement negotiations, HWSC sought to include in this expense category \$2,500 for sales taxes related to chemical costs that were inadvertently booked to another account; however, HWSC was only

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<sup>74</sup>See id. at 22-23.

<sup>75</sup>See id. at 23.

able to provide support for \$1,200 of this amount.<sup>76</sup> Ultimately, the Parties agreed to a general and administrative expense amount of \$5,274 for the test year (i.e., \$4,074 in general office supplies and \$1,200 in sales taxes associated with the cost of chemicals).<sup>77</sup>

Upon review, the commission finds the Parties' stipulated amount of \$5,274 for test year general and administrative expenses to be reasonable.

k.

Miscellaneous and Other

In its Application, HWSC proposed miscellaneous and other expenses of \$31,370 for the test year. This amount consists of \$26,740 in uncollectibles and \$11,315 for office supplies (expenses allocated from its parent). Later, in response to CA-IR-40(c), HWSC proposed using the annualized 2011 expense amount of \$7,791 in uncollectible and \$13,640 in office supplies to determine the test year amount for this expense category. The Consumer Advocate did not object to HWSC's proposal. Thus, the Parties agreed on miscellaneous and other expenses of

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<sup>76</sup>See id. at 23-24.

<sup>77</sup>See id. at 24.

\$21,431 at present rates for the test year,<sup>78</sup> which the commission finds reasonable.

2.

Taxes

a.

Taxes Other Than Income Tax ("TOTIT")

HWSC's TOTIT consists of the: (1) State Public Service Excise Tax, 5.885%, required pursuant to HRS chapter 239; and (2) State Public Utility Fee, 0.5%, required pursuant to HRS § 269-30. Given the stipulated revenue amounts, the commission finds the Parties' stipulated amounts for TOTIT of \$34,963 at present rates (for revenues of \$547,585) and \$72,402 at proposed rates (for revenues of \$1,133,938) for the test year to be reasonable.

b.

Income Taxes

For this proceeding, the calculation for income taxes is based on the federal and state composite income tax rates under present and proposed rates of 38.7407% and 38.6121%, respectively. Based upon the agreed-upon revenue projections, the Parties

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<sup>78</sup>See id.

stipulate to income tax expenses of -\$109,948 at present rates and \$102,364 at proposed rates for the test year. Given our acceptance of the Parties' revised revenue projections, the commission finds reasonable income tax expenses at present and proposed rates for the test year as described above.

3.

#### Depreciation

In its Application, HWSC projected depreciation and amortization expenses of \$358,412 and -\$10,380, respectfully, for the test year. In contrast, the Consumer Advocate recommended depreciation expense of \$138,857 and amortization expense of -\$95,676 for the test year. In addition, the Consumer Advocate objected to HWSC's proposal to incorporate the results of its depreciation study since HWSC filed the study on November 22, 2011, six days after the Consumer Advocate's discovery period had ended.<sup>79</sup> Stating that it was not provided an opportunity ask questions to clarify statements and conclusions made in the study or obtain an understanding of the assumptions used, the Consumer Advocate recommended that the proposed rates from the depreciation study be deferred until HWSC's next rate case.<sup>80</sup> During settlement

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<sup>79</sup>See CA-T-1 at 47-48.

<sup>80</sup>See id.

negotiations, HWSC agreed to the Consumer Advocate's proposal not to incorporate the rates from the depreciation study in this rate case, but reserved its right to file a separate application for review of the study, rather than necessarily waiting until its next rate case.<sup>81</sup> In addition, based on their agreements with respect to rate base, which are discussed in the section below, the Parties stipulate to a test year depreciation expense amount of \$144,870.<sup>82</sup>

Here, given our acceptance of the Parties' agreements with respect to rate base and revenue requirement projections, the commission finds reasonable the Parties' stipulated depreciation amount of \$144,870 for the test year.

4.

Total Operating Expenses

In sum, the commission adopts as reasonable total operating expenses of \$686,927 at present rates and \$933,120 at proposed rates for the test year, details of which are set forth in the Revenue Requirements schedule attached to this Proposed Decision and Order as Exhibit A.

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<sup>81</sup>See Partial Settlement at 26.

<sup>82</sup>See Final Stipulation at 27. See also Final Stipulation, Exhibit A, Schedules 6 and 7.4.

D.

Rate Base

In general, HWSC's rate base is comprised of net plant-in-service (i.e., plant-in-service minus accumulated depreciation), less contributions-in-aid-of-construction ("CIAC"), accumulated deferred taxes, and unamortized Hawaii Capital Goods Excise Tax Credit ("HCGETC"), plus working cash, asset retirement obligations ("ARO"), and a prorated general office balance.<sup>83</sup> In its Application, HWSC projected an average rate base for the test year of \$6,585,172.<sup>84</sup> The Consumer Advocate, upon implementing various adjustments to certain rate base components, arrived at the test year average rate base amount of \$701,927.<sup>85</sup> During settlement negotiations, the Parties were initially unable to agree on certain rate base components; however, the Parties ultimately stipulated to a test year average rate base amount of \$2,510,216 as set forth and discussed below.<sup>86</sup>

<u>Description</u>	<u>Amount</u>
Plant-in-Service	\$6,264,596
Accumulated Depreciation Reserve	<u>(293,642)</u>
Net Plant-in-Service	5,970,954

<sup>83</sup>See Application, Exhibit HWSC 7.

<sup>84</sup>See id. See also Application, Exhibit HWSC 6.

<sup>85</sup>See CA-101 and CA-103.

<sup>86</sup>See Final Stipulation, Exhibit A, Schedules 6 and 7.

Net CIAC	(2,787,533)
Accumulated Deferred Taxes: Fed	(519,199)
Accumulated Deferred Taxes: State	919
Unamortized HCGETC	<u>(210,787)</u>
Subtotal:	(3,516,600)
Working Cash	51,420
ARO	0
Prorated General Office	<u>4,442</u>
Subtotal:	55,862
Stipulated Average Rate Base	\$2,510,216

Final Stipulation, Exhibit A, Schedule 7.

1.

Net Plant-in-Service

Net plant-in-service is derived by subtracting accumulated depreciation from plant-in-service, and represents, in essence, HWSC's net investment in utility property utilized by HWSC to provide wastewater and treatment services during the test year. In their Final Stipulation, the Parties agreed to an average test year net plant-in-service amount of \$5,970,954.<sup>87</sup> For this proceeding, the commission accepts as reasonable the Parties' stipulated average net plant-in-service amount for the test year.

At the outset, HWSC estimated a plant-in-service balance as of June 30, 2012, of \$12,466,405.<sup>88</sup> In addition to various

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<sup>87</sup>See id., Exhibit A, Schedule 7.

<sup>88</sup>See Application, Exhibit HWSC 7.2.

projects that it anticipated to be completed in the test year, which are outlined in Exhibit HWSC 7.2 of its Application,<sup>89</sup> HWSC's estimate included costs related to its New WWTP, which was placed in service in December 2010 and has an original cost of \$9,598,054.

According to HWSC, the need to replace the former wastewater treatment plant was addressed during HWSC's acquisition of the Pukalani system from Pukalani STP. HWSC noted that the former treatment plant was constructed in 1974, considered to be at the end of its useful life (over 30 years old) with much of its infrastructure in a state of disrepair. Given that the former treatment plant was at full capacity, HWSC planned on replacing it with a facility with a treatment capacity of 400,000 gallons per day ("gpd"), constructed in two phases. Phase I of the project replaced the existing plant with the new MBR plant and upgraded the two lift stations that deliver the waste to the plant. HWSC plans on beginning Phase II of the project which involves the purchase and installation of six additional membrane cassettes, two additional ultraviolet light disinfection units, and two feed forward pumps at the plant to double the capacity upon notification from the requesting party (i.e., Pukalani Associates, LLC, the developers of the Kauhale Lani subdivision). A detailed

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<sup>89</sup>See also Partial Settlement at 27-30.

description of the New WWTP is set forth in pages 4-7 of Exhibit HWSC-T-300 of the Application.

The Consumer Advocate, in its Direct Testimony, raised a number of concerns with respect to the New WWTP including the construction of a plant that produced R-1 quality water as opposed to R-2, the cost of the plant, and the level of CIAC that was collected to pay for the New WWTP. In addition, the Consumer Advocate: (1) proposed the inclusion of an 59.28% excess capacity factor for the New WWTP; and (2) recommended disallowance of all other plant additions except for the jetting and vacuum truck stating that HWSC failed to provide sufficient evidence that the other items would be placed into service during the test year. Based on its various concerns, the Consumer Advocate reduced HWSC's initial plant-in-service estimate by \$8,033,975, and arrived a plant-in-service amount of \$4,432,430 as of June 30, 2012.<sup>90</sup>

Ultimately, during settlement negotiations, the Parties were able to agree upon all matters related to the New WWTP, including that the former wastewater treatment plant required replacement, HWSC's decision to construct a plant that produced R-1 effluent and that can be expanded to 400,000 gpd was reasonable and prudent, the costs actually incurred to construct Phase I (approximately \$9.598 million) are reasonable for ratemaking

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<sup>90</sup>See CA-110.

purposes, and for the purposes of this proceeding that the original cost of Phase I will be reduced by a Ratepayer Impact Mitigation Factor ("RIMF") of 35% and the unamortized balance of the "Seller CIAC", which is discussed in the CIAC section below.<sup>91</sup>

The RIMF is explained in the Final Stipulation as follows:

HWSC recognized that, especially given the relatively small customer base, including the entire cost of Phase 1 in rate base in this rate case would be burdensome on ratepayers and acknowledges that to some degree, this is very difficult to avoid. Like most small wastewater utilities, the wastewater treatment plant comprises substantially all of its plant in service. These plants typically have a useful life of 30 to 40 years. When replacement of the plant is required, a substantial expenditure is required (in this case, over \$9 million). Unlike water systems, in which a tank or a well can be added incrementally as needed, for wastewater systems, it is generally not possible to replace wastewater treatment plants in small increments. Therefore, as proposed in the Application, HWSC's rate base will suddenly increase from \$0 to about \$6.5 million, after application of [the] \$2.8 [million] Seller CIAC.

In order to mitigate the impact of this increase in rate base on existing ratepayers, HWSC proposed to phase-in the inclusion of Phase 1 costs in rate base by excluding a portion of the Phase 1 costs from rate base in this rate case as a Rate Impact Mitigation Factor ("RIMF"). The Parties have agreed upon an RIMF of 35%, which will have the effect of limiting the increase for residential customers to less than 100%. As a result of the RIMF adjustment and the application of the unamortized Seller CIAC, the portion of Phase 1 costs included in rate base as of June 30, 2012 is \$3,268,075. Therefore, the Parties stipulate that the cost of Phase 1 will be reduced in this rate

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<sup>91</sup>See Final Stipulation at 25.

case by a 35% RIMF, subject to the WWTP Stipulation Limitations described below.

Final Stipulation at 24-25 (footnote omitted).

With their agreements with respect to the New WWTP and their agreement to include certain other projects in their calculation (i.e., jetting and vacuum truck and HWSC's portion of the Peoplesoft Revenue Management System conversion costs, \$350,000 and \$2,974, respectively),<sup>92</sup> the Parties were able to stipulate to an average test year plant-in-service balance of \$6,264,596.<sup>93</sup> Given their agreement on plant-in-service, and their agreement on the depreciation method to be used for this proceeding,<sup>94</sup> the Parties agreed upon a test year average accumulated depreciation reserve amount of \$293,642, resulting in an average net plant-in-service balance of \$5,970,954 (i.e., \$6,264,596 - \$293,642) for the test year.

Upon review, the commission finds the Parties' stipulation for test year average plant-in-service and average accumulated depreciation reserve of \$6,264,596 and \$293,642, respectively, to be reasonable, under the circumstances and for the purposes of this proceeding. In making this decision,

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<sup>92</sup>See Partial Settlement at 27-30.

<sup>93</sup>See Final Stipulation at 27. See also Final Stipulation, Exhibit A, Schedule 7.

<sup>94</sup>See Partial Settlement at 30.

the commission acknowledges the concession made by HWSC to mitigate the impact of the cost of Phase I of the New WWTP on ratepayers, as described above, and is mindful that the agreements reached by the Parties with respect to these rate base items were in consideration and support of all other provisions of the Parties' Final Stipulation. Based on the foregoing, the commission also finds the Parties' stipulated average net plant-in-service amount of \$5,970,954 for the test year to be reasonable.

2.

CIAC

CIAC is generally known as money or property a developer or customer contributes to fund a utility capital project.

In its Application, HWSC projected a CIAC balance of \$2,753,333 as of June 30, 2011, and \$2,682,904 as of June 30, 2012.<sup>95</sup> According to HWSC, CIAC was received from an affiliate of Pukalani STP in the amount of \$2.8 million (i.e., the Seller CIAC) was included as additions for the 2010 CIAC balance to match the timing of the completion of the New WWTP.<sup>96</sup> HWSC explains that amortization of the recorded CIAC was based on the applicable depreciation rates for contributed plant by

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<sup>95</sup>See Application, Exhibit 7.

<sup>96</sup>See id., Exhibit HWSC-T-100 at 15-16.

category, amortized over thirty years, or 3.33% annually.<sup>97</sup> The Consumer Advocate, in its Direct Testimony, applied the entire amount of CIAC to reduce rate base and adjusted the net CIAC as of June 30, 2011 to include the amortization for January 2011 to June 2011, and adjusted the CIAC balance to include the land and building that were deemed to be CIAC in Docket No. 6210, resulting in net CIAC balance of \$2,759,587.<sup>98</sup> As noted in the section above, to resolve issues associated with the New WWTP, the Parties agreed to apply the full unamortized balance of the Seller CIAC in the test year CIAC and, thus, stipulated to an average test year net CIAC balance of \$2,787,532.<sup>99</sup>

Given the record and our acceptance of the Parties' agreements associated with net plant-in-service, the commission also accepts as reasonable the Parties' stipulated average net CIAC balance of \$2,787,532 for the test year.

3.

Accumulated Deferred Taxes

HWSC calculated deferred taxes "based on accelerated depreciation for federal income tax purposes by the Economic

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<sup>97</sup>See id. at 16.

<sup>98</sup>See CA-T-1 at 49-52.

<sup>99</sup>See Final Stipulation, Exhibit A, Schedule 7.

Recovery Tax Act of 1981 and the Tax Reform Act of 1986."<sup>100</sup> HWSC notes that state regulatory commissions under the statutes calculate a provision for federal income taxes at book rates, and then allow the utility to record the tax differences between book and federal and state depreciation as adjustments to rate base.<sup>101</sup>

For the test year, HWSC calculated deferred taxes based on the recent recorded accruals and forecast of the new plant in the test year.<sup>102</sup> The Consumer Advocate did not object to HWSC method of calculating accumulated deferred income taxes.<sup>103</sup> Thus, based on their agreement with respect to plant-in-service, the Parties stipulate to test year average accumulated deferred income taxes of \$519,199 for federal taxes and \$919 for state taxes.<sup>104</sup>

The commission finds reasonable the Parties' methodology to calculate accumulated deferred income taxes. Accordingly, the commission accepts the Parties' stipulation for average accumulated deferred income taxes of \$519,199 for federal taxes and \$919 for state taxes for the test year as reasonable.

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<sup>100</sup>Application, Exhibit HWSC-T-100 at 17.

<sup>101</sup>See id.

<sup>102</sup>See id.

<sup>103</sup>See Partial Settlement at 31.

<sup>104</sup>See Final Stipulation at 28. See also Final Stipulation, Exhibit A, Schedule 7.

4.

HCGETC

The HCGETC was enacted in 1987. This provision of the Hawaii tax code, generally allow companies a 4% tax credit for the purchase price or construction cost for qualifying plant and property used in a trade or business.<sup>105</sup>

Parties did not have any disagreements regarding the methodology for calculating the HCGETC.<sup>106</sup> Based on their final agreement with respect to plant-in-service, the Parties stipulate to an average HCGETC of \$210,787 for the test year.<sup>107</sup> The commission finds the Parties' agreements with respect to this rate base item to be reasonable.

5.

Working Cash

Generally, working cash (or capital) represents the amount of funds provided by shareholders over and above the investment in plant and other specific rate base items to allow a utility to meet current obligations incurred in providing service

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<sup>105</sup>See HRS § 235-110.7.

<sup>106</sup>See Partial Settlement at 31.

<sup>107</sup>See Final Stipulation at 28. See also Final Stipulation, Exhibit A, Schedule 7.

pending the receipt of revenues for those services.<sup>108</sup> For working cash, HWSC states that "[e]xpenses were analyzed and forecasted for the test year using the simplified 1/12<sup>th</sup> method" which is a generally accepted method for calculating working cash for smaller utilities.<sup>109</sup> "This method uses one-twelfth of the annual operating expenses as a proxy for determining the amount of cash that is dedicated to utility service (paying bills prior to receiving customer revenues)."<sup>110</sup>

The Consumer Advocate did not object to HWSC's method of calculating working cash.<sup>111</sup> Based on their agreements with respect to test year expenses, the Parties Stipulated to an average test year working cash amount of \$51,420 for the test year.<sup>112</sup>

The commission finds the use of the 1/12<sup>th</sup> method, as described above, to be acceptable. We note that this is the same methodology previously approved by the commission for HWSC's general rate increase proceedings involving its Kaanapali division (i.e., Docket Nos. 03-0275 and 2009-0310). Thus, the commission

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<sup>108</sup>See In re Hawaiian Beaches Water Company, Inc., Proposed Decision and Order, filed on January 14, 2010, in Docket No. 2009-0161, at 27.

<sup>109</sup>Application, Exhibit HWSC-T-100 at 18.

<sup>110</sup>Id.

<sup>111</sup>See Partial Settlement at 31.

<sup>112</sup>See Final Stipulation at 28. See also Final Stipulation, Exhibit A, Schedule 7.

finds reasonable the average working cash balance of \$51,420 for the test year, as stipulated to by the Parties.

6.

ARO

In its Application, HWSC proposed to include in rate base an ARO balance of \$800 as of June 30, 2011 and \$1,543 as of June 30, 2012.<sup>113</sup> According to HWSC, it has a legal obligation to retire the wastewater aeration pond at the end of its useful life and contends that the customers benefiting from the pond should pay for the eventual retirement of the pond.<sup>114</sup> HWSC states that the ARO amount of \$857 per year for 35 years was determined by using recent quotes from qualified third party vendors.<sup>115</sup> The Consumer Advocate recommended that HWSC's proposal to include this estimated balance in rate base should be denied.<sup>116</sup> According to the Consumer Advocate, these cost represent future obligations, have not been incurred and, thus, no investment or outlay of cash has occurred.<sup>117</sup> The Consumer Advocate stated that if HWSC desired

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<sup>113</sup>See Application, Exhibit HWSC 7.

<sup>114</sup>See id., HWSC-T-100 at 9.

<sup>115</sup>See id.

<sup>116</sup>See CA-T-1 at 57.

<sup>117</sup>See id.

to initiate collecting anticipated costs to be incurred in the future, HWSC could determine the appropriate amount to collect on a ratable basis as part of its depreciation study, and record any monies collected as a regulatory liability until the costs are actually incurred to retire the pond.<sup>118</sup> HWSC agreed to the Consumer Advocate's adjustment regarding ARO, and the Parties stipulated to remove ARO from rate base.<sup>119</sup>

The commission finds reasonable the Parties' agreement to remove the ARO balance from the calculation of HWSC's test year rate base for this proceeding.

7.

#### Prorated General Office

HWSC's balance for prorated general office represents its portion allocated from its parent's general office rate base adopted in HWSC's 2009 general rate case (i.e., 2009-0310) for supporting HWSC's operations.<sup>120</sup> This balance represents the share of CWSG's adopted total rate base components (utility plant less accumulated depreciation reserve less deferred taxes plus working

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<sup>118</sup>See id. at 57-58.

<sup>119</sup>See Partial Settlement at 32. See also Final Stipulation, Exhibit A, Schedule 7.

<sup>120</sup>See HWSC's response to CA-IR-10 (filed on January 21, 2012).

capital) allocated to HWSC.<sup>121</sup> For this proceeding, the Parties stipulated to an average prorated general office balance of \$4,442 for the test year.<sup>122</sup>

Previously, the commission accepted, for this proceeding, the Parties' agreement to use HWSC's proposed Four Factor Allocation Method to allocate shared costs among its water and wastewater systems that it directly or through its subsidiaries owns and operates. Thus, similarly, the commission accepts as reasonable the average balance of \$4,442 for prorated general office for the test year, as stipulated to by the Parties.

#### E.

##### Rate of Return

Rate of return, also known as the return on rate base, is derived from the ratio of debt to equity (i.e., capital structure) and the cost rates for the debt and equity. Under HRS § 269-16(b)(3), the commission is tasked to:

Do all things that are necessary and in the exercise of the commission's power and jurisdiction, all of which as so ordered, regulated, fixed, and changed are just and reasonable, and provide a fair return on the property of the utility actually used or useful for public utility purposes.

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<sup>121</sup>See id.

<sup>122</sup>See Final Stipulation, Exhibit A, Schedule 7.

HRS § 269-16(b)(3) (emphasis added). "A fair return is the percentage rate of earnings on the rate base allowed a utility after making provision for operating expenses, depreciation, taxes and other direct operating costs."<sup>123</sup>

The commission, with respect to rate of return, acknowledges the Hawaii Supreme Court's statements in In re HELCO that:

Questions concerning a fair rate of return are particularly vexing as the reasonableness of rates is not determined by a fixed formula but is a fact question requiring the exercise of sound discretion by the Commission. . . . It is often recognized that the ratemaking function involves the making of "pragmatic" adjustments and there is no single correct rate of return but that there is a "zone of reasonableness" within which the commission may exercise its judgment.

In re HELCO at 636, 620 (citations omitted).

In its Application, HWSC proposed a rate of return of 8.19% based on a: (1) balanced capital of 50% debt and 50% equity; and (2) cost of debt of 5.88%, and return on equity of 10.50%.<sup>124</sup> HWSC explained that a balanced equity structure minimizes the financial risk that debt imposes on the return on equity and that the proposed 5.88% cost of debt represents the most recent

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<sup>123</sup>See In re Hawaii Elec. Light Co., Inc., 60 Haw. 625, 594 P.2d 612 (1979) ("In re HELCO") at 632, 618 (citations omitted).

<sup>124</sup>See Application, Exhibit HWSC 10.

guaranteed offering from CWSG, HWSC's parent company.<sup>125</sup> With respect to the proposed 10.5% return on equity, HWSC stated that the rate was based on the recently authorized returns of California utilities of 10.2% and on its witness' opinion that, among other things, there are certain operational risks (i.e., operational size, remote operation, and location) for HWSC over and above faced by California utilities that support a higher rate of return.<sup>126</sup>

The Consumer Advocate, in its Direct Testimony, recommended that the cost of debt should be revised to reflect the rate for debt recently issued by CWSG of 5.5%, which was acknowledged by HWSC in response to CA-IR-74(c)(2).<sup>127</sup> With this change, the Consumer Advocate recommended a test year rate of return of 8.00%.<sup>128</sup> During settlement negotiations, HWSC accepted the Consumer Advocate's proposal and the Parties' stipulated to "a rate of return of 8.00%, based on a balanced capital structure of 50% debt and 50% equity, cost of debt of 5.5% and a return on

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<sup>125</sup>See Partial Settlement at 33. See also Application, Exhibit HWSC-T-100 at 9-10.

<sup>126</sup>See id. at 33-34.

<sup>127</sup>See CA-T-1 at 60.

<sup>128</sup>See id. at 61.

equity of 10.50%."<sup>129</sup> The following diagram sets forth the Parties' agreements on rate of return:

<u>Capital Components</u>	<u>Amount</u>	<u>Ratio</u>	<u>Cost Rates</u>	<u>Weighted Cost</u>
Long-term Debt	\$1,255,108	50%	5.5%	2.75%
Common Stock	<u>1,255,108</u>	<u>50%</u>	10.5%	<u>5.25%</u>
	\$2,510,216	100%		8.00%

Final Stipulation, Exhibit A, Schedule 10.

Upon review, the commission finds the Parties' stipulated 8.00% rate of return to be fair. Among other things, this agreed-upon amount appears to be consistent with the range of rates of return recently approved by the commission for similarly situated utilities. For example, in 2011, the commission approved a rate of return of 8.10% for Hawaii-American Water Company, a utility that provides wastewater and treatment services on the east side of the island of Oahu.<sup>130</sup> In addition, the commission finds that the Parties' stipulated rate of return is within the range of reasonableness discussed by the Hawaii Supreme Court in In re HELCO. Accordingly, the commission approves as fair and reasonable the Parties' stipulated overall rate of return of 8.00%, as described above.

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<sup>129</sup>Partial Settlement at 35.

<sup>130</sup>See In re Hawaii-American Water Company, Decision and Order issued on November 21, 2011, in Docket No. 2010-0313, at 62.

F.

Rate Design

As stated previously, HWSC's existing rate design consists of: (1) a flat monthly rate charged to residential and government customers; (2) a quantity rate charged to commercial customers based on usage (per TGs); and (3) an effluent rate (per TGs) charged to the Golf Course.

In its Application, HWSC did not propose any changes to its existing rate design aside from increasing the rates charged to its government customers (i.e., Pukalani Elementary and the Community Center) at twice the percentage charge to other customers to move these customers closer to the actual cost of providing service to them. This matter was discussed in detail in the applicable revenue section, above. For this proceeding, HWSC proposed to allocate the increase in revenues to its flat rate customers (i.e., residential and government) and quantity rate customers (i.e., commercial) at approximately 63.9% and 36.1%, respectively, and proposed to keep its \$0.55 effluent rate unchanged.<sup>131</sup> Additionally, HWSC proposed to implement the rate increase in three phases, one year apart, to avoid rate shock.<sup>132</sup>

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<sup>131</sup>See Application, Exhibit HWSC 11.

<sup>132</sup>See id., Exhibit HWSC-T-100 at 28.

"Based on the Consumer Advocate's proposed adjustments to the various revenue requirement elements, the Consumer Advocate's proposed increase to residential and commercial customers is 34% while the increase to governmental customers is 63%."<sup>133</sup> Given its various adjustments (resulting in a lower overall rate increase), the Consumer Advocate did not recommend that the revenue increase be phased-in. However, the Consumer Advocate stated that if its recommendations are not adopted and the rate increase of 224.7% is granted, the Consumer Advocate recommends a five-year phase-in period instead of the three-year period, proposed by HWSC, to allow customers to plan for the increase and to mitigate rate shock.<sup>134</sup> In addition, while not recommending an adjustment to the effluent rate, the Consumer Advocate stated, among other things, that HWSC's effluent rate does not necessarily reflect the cost of providing R-1 effluent to the Golf Course.<sup>135</sup> Moreover, the Consumer Advocate discussed the need for a cost of service study, which HWSC failed to provide with its Application.<sup>136</sup>

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<sup>133</sup>See CA-T-1 at 71. See also CA-119.

<sup>134</sup>See id.

<sup>135</sup>See id. at 65.

<sup>136</sup>See id.

During settlement negotiations, the Parties ultimately agreed on revenue requirement elements that would result in an overall increase in revenues by approximately 107.1%.<sup>137</sup> Based on findings of the HWSC's Cost of Service Study, filed on November 9, 2012, in response to concerns raised by the commission and the Consumer Advocate, the Parties stipulate to a rate design wherein 60% of revenues are recovered from flat rate charges (i.e., residential and government customers) and 40% from quantity rate charges (i.e., commercial customers).<sup>138</sup> The Parties also agreed that the increase in revenues be implemented in three phases, one year apart,<sup>139</sup> as set forth below:

	Present Rate	Year 1 Proposed Rate	Year 2 Proposed Rate	Year 3 Proposed Rate
Residential (per month per residence)	\$32.22	\$44.97	\$53.57	\$62.17
Commercial (per TGs of water used)	\$2.7668	\$6.20	\$7.3915	\$8.5786
Government/Education (Pukalani Elementary School, per month)	\$263.78	\$472.47	\$653.25	\$903.21

<sup>137</sup>See Final Stipulation at 28.

<sup>138</sup>See Partial Settlement at 37.

<sup>139</sup>In addition, for the purpose of settlement, HWSC agreed to withdrawal its request to be made whole for the delayed recovery through the inclusion of deferred revenues in rate base. See Partial Settlement at 38. Given this withdrawal, the commission need not address this matter further.

Government/Recreation (Hannibal Tavares Community Center, per month)	\$59.95	\$107.38	\$148.47	\$172.31
Effluent Sales (per TGs)	\$0.55	No change	No change	No change

See Final Stipulation at 29. See also Final Stipulation, Exhibit A, Schedule 11. Furthermore, the Parties agreed that HWSC will take the following actions to obtain more complete and reliable information regarding wastewater flow:

1. HWSC will continue to attempt to obtain from the County of Maui at least a sample of the metered water usage of residential customers sufficient to provide a reasonable estimated residential water usage.
2. HWSC will take action to substantiate the metered water usage net of irrigation for each commercial customer.
3. HWSC will take action to determine the correlation between/among metered water use, wastewater flows, and effluent discharge.

See Partial Settlement at 37.

Upon review, the commission finds the Parties' stipulated proposed rate design, under the circumstances, to be acceptable. Nonetheless, the commission concurs with the Consumer Advocate's assessment that HWSC's effluent rate of \$0.55, as ultimately agreed to by the Parties, does not necessarily reflect the cost of providing the Golf Course R-1 effluent.<sup>140</sup> While

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<sup>140</sup>See CA-T-1 at 65.

the commission is troubled with this matter, the commission accepts the Parties' agreement with respect to the effluent rate, at this juncture, given that: (1) the record indicates that the Golf Course had informally stated that if the effluent rate increased they will be forced to consider installing an additional supply well or purchase additional domestic water from the County of Maui<sup>141</sup>; and (2) AUS Consultants, who conducted HWSC's Cost of Service Study (which has certain recognized shortcomings)<sup>142</sup>, states that it could not support a higher effluent rate through the study.<sup>143</sup>

While the commission believes that a small increase in the effluent rate may not be unreasonable, in this case, the record is not clear on how much of an increase is appropriate. The commission is also mindful of the symbiotic relationship between HWSC and the Golf Course. If the Golf Course decides to find a new source of water and not renew the Asset Purchase and Sales Agreement with HWSC to take 100% of HWSC's wastewater plant effluent, HWSC will need to find another means to dispose of its effluent which will ultimately increase the cost to all of HWSC's other ratepayers.

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<sup>141</sup>See HWSC's response to CA-IR-52(d).

<sup>142</sup>See Partial Settlement at 36.

<sup>143</sup>See id. at 41. See also Cost of Service Study at 10-11.

HWSC's inability to obtain reliable information with respect to wastewater flow: (1) impacted HWSC's decision to not file a cost of service study at the outset of this proceeding<sup>144</sup>; (2) added to the shortcoming of the Cost of Service Study, which was belatedly filed<sup>145</sup>; and (3) affected the determination of the effluent rate to be charged to the Golf Course.<sup>146</sup> The Parties' agreements with respect to obtaining more complete and reliable information regarding wastewater flow should assist in addressing this issue and, thus, the commission adopts them as reasonable, which we reiterate here:

1. HWSC will continue to attempt to obtain from the County of Maui at least a sample of the metered water usage of residential customers sufficient to provide a reasonable estimated residential water usage.
2. HWSC will take action to substantiate the metered water usage net of irrigation for each commercial customer.
3. HWSC will take action to determine the correlation between/among metered water use, wastewater flows, and effluent discharge.

See Partial Settlement at 37. These agreements are hereafter referred to as the "Wastewater Flow Agreements."

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<sup>144</sup>See Application, Exhibit HWSC-T-100 at 20. See also CA-T-1 at 66.

<sup>145</sup>See Partial Settlement at 36.

<sup>146</sup>See id. at 39.

HWSC shall provide a narrative with respect to its efforts on the Wastewater Flow Agreements in its next rate case proceeding, which shall be filed on or before 2019, and as the commission had required previously, HWSC shall undertake and complete a cost of service study for its next rate case, which HWSC must file with its application. Based on the results of the cost of service study, HWSC is instructed to propose a rate design for its next rate case that includes both fixed and volumetric rates for its services, unless HWSC can provide sufficient justification that doing so is unreasonable. The Consumer Advocate agrees that completing a cost of service study is important, and noted the following in its Direct Testimony:

A cost of service study is a process used to assign or allocate the cost of service among the various customer classes based on their relative impact or usage of the utility system. The objective of the study is to match the costs to the cost-causer. A cost of service study would determine whether costs that are attributable to the system should be further allocated among the different types of customers such as residential, commercial and agriculture categories. The cost of service study would also identify high usage customers or customers who place greater demands on the system, and then determine costs specifically generated by those customers.

....

[W]ithout a cost of service study, it would be difficult to establish the cost of providing service to each customer class. The issue of cross-subsidization among customer classes would

continue to pose a problem in setting compensatory rates. Therefore, I still believe that a cost of service should be done. Reliance on flat rates is generally not a preferred rate design as there are a number of shortcomings, such as it does not allow the establishment of proper price signals regarding the cost of service and subsidization may occur within a customer class as well as between customer classes. In addition, the absence of volumetric rates eliminates the possibility of using price signals to encourage conservation.

See CA-T-1 at 67-69. The commission fully concurs with the sentiments expressed by the Consumer Advocate. Failure by HWSC to include a cost of service study with its application in its next rate case proceeding, as it failed to do for this proceeding, may be cause for the commission to deem HWSC's application to be incomplete, and may result in further regulatory actions.<sup>147</sup>

Based on the foregoing, the commission finds the Parties' stipulated rate design (which includes a three-year, phase-in of the increase) and related agreements, as discussed above and set forth in the Parties' stipulations to be reasonable. In addition, for its next case rate proceeding, which shall be filed on or before 2019, HWSC is directed to: (1) provide a narrative with respect to their efforts regarding the Wastewater Flow Agreements; and (2) undertake and complete a cost of service study, as discussed above. The rate design approved herein should

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<sup>147</sup>See HRS § 269-28 (commission's penalty provisions).

provide HWSC with a reasonable opportunity to earn its test year revenue requirement of \$1,133,937, as stipulated by the Parties, starting from the third year.

G.

Tariff Changes

1.

PCAC

In its Application, HWSC proposed to update its PCAC to reflect the test year cost of electricity per kilowatt-hour ("kWh") and test year usage.<sup>148</sup> The Consumer Advocate had no objections regarding this proposal.<sup>149</sup> During settlement negotiations, the Parties agreed to update HWSC's PCAC based on agreed upon production and power costs and, thus, agreed to reflect the test year costs per kWh and test year usage of \$0.3627 and 604,991 kWh, respectively, in the calculation of HWSC's PCAC.<sup>150</sup> The agreed-upon revisions to PCAC are depicted in Exhibit A, Schedule 8.6 of the Partial Settlement.

Upon review, the commission finds reasonable the Parties' agreement to update HWSC's PCAC as described above.

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<sup>148</sup>See Application, Exhibit HWSC-T-100 at 27-28. See also Application, Exhibit 8.6.

<sup>149</sup>See CA-T-1 at 61.

<sup>150</sup>See Partial Settlement at 42.

2.

Addition of "Multi-Family" Description

With respect to its tariff, HWSC proposed to include, the "multi-family" description on its tariff under the residential customer classification.<sup>151</sup> According to HWSC, the rate will be same for single-family and multi-family residential classes. The Consumer Advocate states that it has no objection to the addition of this description since HWSC proposes to charge the multi-family units and residential customers the same rate.<sup>152</sup> Similarly, the commission has no objection to this proposed description change and finds this tariff change to be reasonable.

3.

Deletion of "Government/Education" and  
"Government/Recreation" Customer Designations

HWSC also proposes to revise its tariff by: (1) deleting the "Government/Education" and "Government/Recreation" customer classes and naming the two customers to whom these rates apply (i.e., Pukalani Elementary and Community Center); (2) converting the UH-Astronomy and Police Center, misclassified as government customers, to commercial customers; and (3) classifying all new

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<sup>151</sup>See Application, Exhibit HWSC-T-100 at 28.

<sup>152</sup>See CA-T-1 at 62.

"government" customers as commercial customers, charging them HWSC's commercial rate.<sup>153</sup> According to HWSC, these tariff changes are being made to avoid any confusion in the future as it recently experienced with the UH-Astronomy and Police Center.<sup>154</sup> The Consumer Advocate appears to not have any objections to these tariff changes.

Given that the purpose of the proposed changes is to reduce confusion and noting no objections to the proposed changes, the commission is supportive of the proposed tariff changes and finds such changes to be reasonable.

H.

Request for Interim Rates

In the Partial Settlement, the Parties requested that the commission approval interim rates in this proceeding until the commission issues its final decision and order regarding HWSC's Application. Among other things, the Parties agreed that sufficient evidence exists for the commission to decide on interim rates that can be made effective during the commission's deliberations on the remaining issues regarding the New WWTP and

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<sup>153</sup>See Application, Exhibit HWSC-T-100 at 22.

<sup>154</sup>See Id.

further agreed that HWSC is probably entitled to an increase in its rates as described in their Partial Settlement.<sup>155</sup>

Given the commission's final decision here with respect to all issues concerning HWSC's Application, the Parties' request for interim rates for this proceeding is moot, and need not further be addressed.

### III.

#### Summary of Findings and Conclusions

The commission's finds and concludes:

1. The operating revenues and expenses for the test year, stipulated to by the Parties and as set forth in Exhibit A, attached, are reasonable.

2. As stipulated by the Parties, HWSC is entitled to: (A) an increase in revenues of \$586,352, or approximately 107.1% over revenues at present rates; and (B) total operating revenues of \$1,133,937 at proposed rates.

3. The Parties' stipulated test year average depreciated rate base of \$2,510,216 is reasonable.

4. The Parties' stipulated rate of return for the test year of 8.00% is fair.

5. The Parties' stipulated rate design, including the three (3)-year phase-in of HWSC's new wastewater rates, as

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<sup>155</sup>See Partial Settlement at 42.

discussed in Section II.F of this Proposed Decision and Order, is reasonable.

6. HWSC's proposed tariff changes including updating its PCAC, as agreed to by the Parties, are reasonable.

7. In its next rate case proceeding, which shall be filed on or before 2019, HWSC shall: (1) provide a narrative regarding its efforts on the Wastewater Flow Agreements; and (2) undertake and complete a cost of service study, which HWSC must file with its application. Based on the results of the cost of service study, HWSC is instructed to propose a rate design for its next rate case that includes both fixed and volumetric rates for its services, unless HWSC can provide sufficient justification that doing so is unreasonable.

#### IV.

##### Acceptance or Non-Acceptance

Consistent with HRS § 269-16(f)(3), with ten days from the date of this Proposed Decision and Order, each of the Parties shall notify the commission as to whether it:<sup>156</sup>

1. Accepts, in toto, the Proposed Decision and Order. If the Parties accept the Proposed Decision and Order, they

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<sup>156</sup>This deadline date is consistent with the deadline to move for reconsideration of a commission decision or order. See HAR § 6-61-137 (ten (10) day deadline, motion for reconsideration).

"shall not be entitled to a contested case hearing, and [HRS] section 269-15.5 shall not apply." HRS § 269-16(f)(3).

2. Does not accept, in whole or in part, the Proposed Decision and Order. If so, said party shall give notice of its objection or non-acceptance and set forth the basis for its objection or non-acceptance. Id. Moreover, the party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record, i.e., the materials available to the commission at the time of its issuance of the Proposed Decision and Order.

Any party that does not accept the Proposed Decision and Order "shall be entitled to a contested case hearing; provided that the [P]arties to the proceeding may waive the contested case hearing." Id.

The underlying purpose of act codified as HRS § 269-16(f) is to expedite the ratemaking process for public utilities with annual gross revenues of less than two (2) million dollars. Consistent thereto, the commission has completed its review and issues this Proposed Decision and Order, consistent with HRS § 269-16(f). Nonetheless, the commission makes it clear that if it is required to issue a Decision and Order due to the non-acceptance of the Proposed Decision and Order by one (1) or both of the Parties, the commission is free to review anew the entire docket and all issues therein.

v.

Orders

THE COMMISSION ORDERS:

1. The Parties' Final Stipulation, filed on December 20, 2012, is approved.

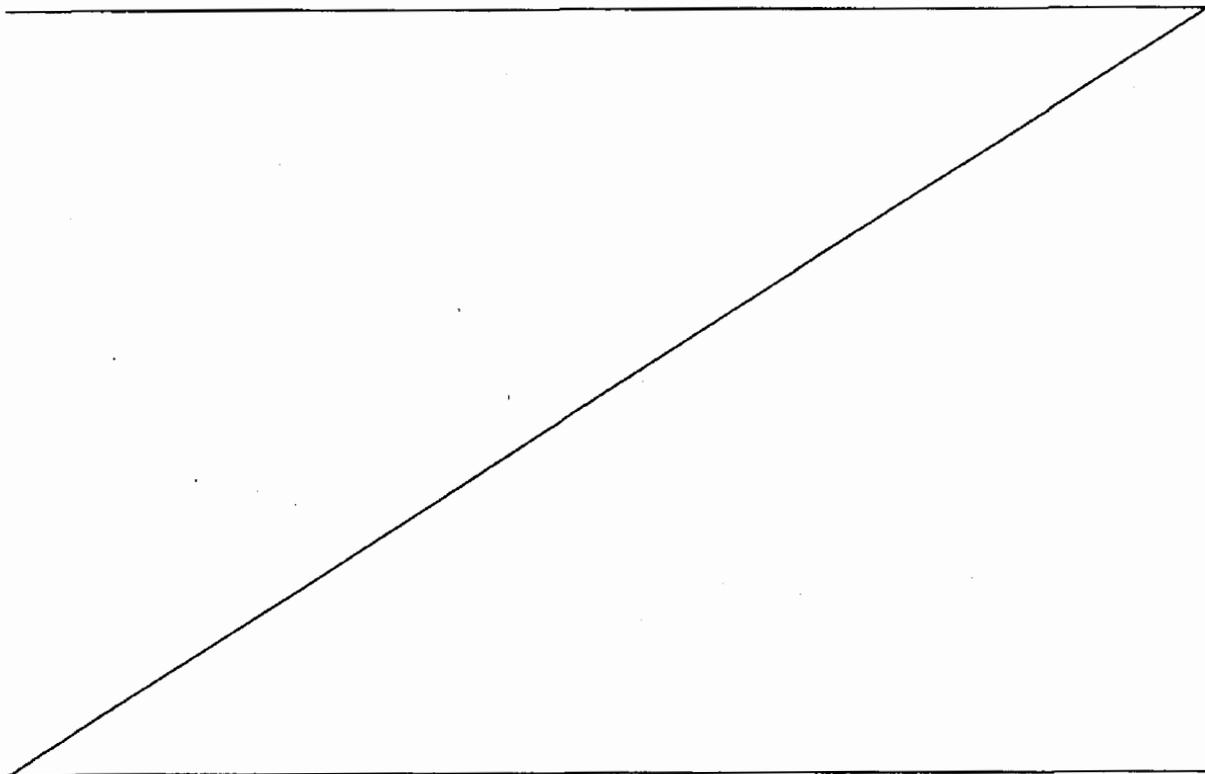
2. HWSC may increase its rates to produce additional revenues of \$586,352, or approximately 107.1%, over revenues at present rates, as shown on Exhibit A, attached, representing an increase in HWSC's revenue requirement to \$1,133,937 for the test year based on a stipulated rate of return of 8.00%.

3. HWSC shall promptly file its revised tariff sheets and rate schedules, consistent with the commission's decisions herein, for the commission's review and approval, with copies served upon the Consumer Advocate. HWSC's revised tariff sheets shall take effect upon the commission's approval of said filings.

4. Within ten days from the date of this Proposed Decision and Order, each of the Parties shall notify the commission as to whether it accepts, in toto, or does not accept, in whole or in part, this Proposed Decision and Order, consistent with Section IV, above. A Party's objection or non-acceptance shall be based on the evidence and information contained in the current docket record.

5. In its next rate case proceeding, which shall be filed on or before 2019, HWSC shall: (1) provide a narrative

regarding its efforts on the Wastewater Flow Agreements; and (2) undertake and complete a cost of service study, which HWSC must file with its application. Based on the results of the cost of service study, HWSC is instructed to propose a rate design for its next rate case that includes both fixed and volumetric rates for its services, unless HWSC can provide sufficient justification that doing so is unreasonable. Failure by HWSC to include a cost of service study with its application in its next rate case proceeding, as it failed to do for this proceeding, may be cause for the commission to deem HWSC's application to be incomplete, and may result in further regulatory actions.



6. The failure to comply with any of the requirements set forth in Ordering Paragraph Nos. 3-5, above, may constitute cause to void this Proposed Decision and Order, and may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii DEC 23 2013

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By *Hermina Morita*  
Hermina Morita, Chair

By *Michael E. Champley*  
Michael E. Champley, Commissioner

By *Lorraine H. Akiba*  
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:

*Ji Sook Kim*  
Ji Sook Kim  
Commission Counsel

2011-0148.do

Docket No. 2011-0148  
Hawaii Water Service Company - Pukalani  
Revenue Requirements  
Test Year Ending June 30, 2012

	<u>Present Rates</u>	<u>Additional Amount</u>	<u>Test Year Proposed Rates 8.00%</u>
Quantity Rates	141,597	297,429	439,026
Flat Rates	340,648	317,890	658,539
Effluent Rates	36,373	-	36,373
Power Cost Adjustment	28,967	(28,967)	-
Total Operating Revenues	<u>547,585</u>	<u>586,352</u>	<u>1,133,937</u>
Labor Expenses	243,083	-	243,083
Power Cost	219,406	-	219,406
Water Consumption	-	-	-
Chemicals	18,000	-	18,000
Materials & Supplies	-	-	-
Waste/Sludge Disposal	40,369	-	40,369
Affiliated Charges	2,396	-	2,396
Professional and Outside Services	9,000	-	9,000
Repairs & Maintenance	34,808	-	34,808
Rental Expenses	-	-	-
Insurance Expenses	3,875	-	3,875
Regulatory Expenses	19,400	-	19,400
General & Administrative Expenses	5,274	-	5,274
Miscellaneous & Other Expenses	21,431	-	21,431
additional line item	-	-	-
Total O&M Expenses	<u>617,041</u>	<u>-</u>	<u>617,041</u>
Taxes, Other Than Income	34,963	37,439	72,402
Depreciation	144,870	-	144,870
CIAC Amortization	-	-	-
Income Taxes	(109,948)	212,312	102,364
Diff due to changing factors	-	(3,557)	(3,557)
Total Operating Expenses	<u>686,927</u>	<u>246,193</u>	<u>933,120</u>
Operating Income	<u>(139,342)</u>	<u>340,159</u>	<u>200,817</u>
Average Rate Base	<u>2,510,216</u>	<u>-</u>	<u>2,510,216</u>
Return on Rate Base	<u>-5.55%</u>	<u>-</u>	<u>8.00%</u>

Docket No. 2011-0148  
Hawaii Water Service Company - Pukalani  
Average Rate Base  
Test Year Ending June 30, 2012

	At <u>June 30, 2011</u>	At <u>June 30, 2012</u>	<u>Average</u>
Plant-in-Service	6,088,122	6,441,069	6,264,596
Accumulated Depreciation Reserve	<u>173,877</u>	<u>413,406</u>	<u>293,642</u>
Net Plant-in-Service	5,914,245	6,027,663	5,970,954
Deduct:			
Net Contributions in Aid of Construction	(2,815,477)	(2,759,588)	(2,787,532)
Customer Advances	-	-	-
Customer Deposits	-	-	-
Accumulated Deferred Taxes: Federal	(547,830)	(490,568)	(519,199)
Accumulated Deferred Taxes: State	(615)	2,453	919
Unamortized Hawaii General Excise Tax Credit	<u>(214,251)</u>	<u>(207,323)</u>	<u>(210,787)</u>
Subtotal	(3,578,173)	(3,455,026)	(3,516,600)
Add:			
Working Capital	51,420	51,420	51,420
ARO	-	-	-
Prorated General Office	<u>4,442</u>	<u>4,442</u>	<u>4,442</u>
Subtotal	<u>55,862</u>	<u>55,862</u>	<u>55,862</u>
Subtotal	2,391,933	2,628,499	2,510,216
Rate Base at Proposed Rates			<u><u>2,510,216</u></u>

Docket No. 2011-0148  
Hawaii Water Service Company - Pukalani  
Taxes Other Than Income Taxes  
Test Year Ending June 30, 2012

<u>Revenue Taxes</u>	<u>Tax Rates</u>	<u>Taxes at Present Rates</u>	<u>Taxes at Proposed Rates</u>
Public Company Service Tax	5.885%	32,225	66,732
Public Utility Fee	0.500%	2,738	5,670
Franchise Tax	2.500%	_____	_____
<b>Total Revenue Taxes</b>		<b>34,963</b>	<b>72,402</b>
 <u>Other Taxes</u>			
Payroll taxes		0	0
<b>Total Other Taxes</b>		<b>0</b>	<b>0</b>
<b>Total Taxes Other Than Income Taxes</b>		<b><u>34,963</u></b>	<b><u>72,402</u></b>

Docket No. 2011-0148  
Hawaii Water Service Company - Pukalani  
Income Tax Expense  
Test Year Ending June 30, 2012

	At <u>Present Rates</u>	At <u>Proposed Rates</u>
Total Revenues	547,585	1,133,937
Total O&M Expenses	617,041	617,041
Depreciation	144,870	144,870
CIAC Amortization	-	-
Taxes Other Than Income Taxes	<u>34,963</u>	<u>72,402</u>
Total Operating Expenses	796,875	834,313
Operating Income before Income Taxes	(249,290)	299,624
Interest Expense	<u>34,515</u>	<u>34,515</u>
State Taxable Income	(283,805)	265,109
State Income Tax	Tax Rates	
less than \$25K	4.4000%	
Other \$25K, but less than \$100K	5.4000%	250
Over \$100K	6.4000%	1,250
		<u>15,717</u>
Federal Taxable Income	(283,805)	249,392
Federal Taxable Income		
less than \$50K	15.0%	
Over \$50K, but less than \$75K	25.0%	
Over \$75K, but less than \$100K	34.0%	
Over \$100K, but less than \$335K	39.0%	97,263
Over \$335K	35.0%	(99,332)
Less HCGET Credit Amortization	<u>10,616</u>	<u>10,616</u>
Total Federal and State Income Taxes	<u>(109,948)</u>	<u>102,364</u>
Executive Tax Rate	38.7407%	38.6121%
State	0.0000%	5.9285%
Federal	35.0000%	36.6880%

Docket No. 2011-0148  
Hawaii Water Service Company - Pukalani  
Working Capital  
Test Year Ending June 30, 2012

Labor Expenses	243,083
Fuel & Power	219,406
Water Consumption	-
Chemicals	18,000
Materials & Supplies	-
Waste/Sludge Disposal	40,369
Affiliated Charges	2,396
Professional and Outside Services	9,000
Repairs & Maintenance	34,808
Rental Expenses	-
Insurance Expensees	3,875
Regulatory Expenss	19,400
General & Administrative Expenses	5,274
Miscellaneous & Other Expenses	21,431
Taxes, Other Than Income	<u>0</u>
Subtotal	617,041
Working Capital factor	<u>12</u>
Working Capital	<u><u>51,420</u></u>

CERTIFICATE OF SERVICE

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

JEFFREY T. ONO  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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