

NEIL ABERCROMBIE  
GOVERNOR

RECEIVED  
SENATE  
OFFICE OF THE PRESIDENT



DEPT. COMM. NO. 16

HERMINA MORITA  
CHAIR

JOHN E. COLE  
COMMISSIONER

MICHAEL E. CHAMPLEY  
COMMISSIONER

'11 DEC -7 P2:22

STATE OF HAWAII  
PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE

465 S. KING STREET, #103  
HONOLULU, HAWAII 96813

e-mail: Hawaii.PUC@hawaii.gov

Telephone: (808) 586-2020  
Facsimile: (808) 586-2066

December 6, 2011

The Honorable Shan S. Tsutsui  
President of the Senate  
Hawai'i State Capitol, Room 409  
415 South Beretania Street  
Honolulu, Hawai'i 96813

The Honorable Calvin K.Y. Say  
Speaker of the House  
Hawai'i State Capitol, Room 431  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Re: PUC Docket No. 2005-0103 – Application of Hawaii-American Water Company for Approval of Rate Increases and Revised Rate Schedules and Rules (“2006 Test Year Rate Case”)

PUC Docket No. 2007-0180 – Application of Hawaii-American Water Company for Approval of Rate Increases and Revised Rate Schedules and Rules (“2008 Test Year Rate Case”)

Dear President Tsutsui and Speaker Say:

The Public Utilities Commission (“Commission”) issued its Final Decision and Orders in Docket Nos. 2005-0103 and 2007-0180 on November 10, 2011. See attached copy of the two orders. The Commission respectfully submits this report pursuant to Hawai'i Revised Statutes (“HRS”) § 269-16(d).<sup>1</sup>

<sup>1</sup>HRS § 269-16, which governs the regulation of utility rates and ratemaking procedures, states in relevant part:

(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate, the commission shall require all parties to a proceeding to comply strictly with procedural time schedules that it establishes. *If a decision is rendered after the nine-month period, the commission shall report in writing the reasons therefor to the legislature within thirty days after rendering the decision.*

Hawaii District Office • 688 Kinoole Street, #106, Hilo, Hawaii 96720 • Telephone: (808) 974-4533, Facsimile: (808) 974-4534  
Kauai District Office • 3060 Eiwa Street, #302-C, Lihue, Hawaii 96766 • Telephone: (808) 274-3232, Facsimile: (808) 274-3233  
(Mailing address: Kauai District Office • 3060 Eiwa Street, Suite 307, Lihue, Hawaii 96766)

Maui District Office • State Office Building #1, 54 South High Street, #218, Wailuku, Hawaii 96793 • Telephone: (808) 984-8182, Facsimile: (808) 984-8183

2006 Test Year Rate Case

On August 25, 2005, Hawaii-American Water Company ("HAWC") filed an application requesting Commission approval to increase its rates and revise its rate schedules and rules for service.<sup>2</sup> The Consumer Advocate did not object to the completeness of the application, pursuant to the requirements set forth in HRS § 269-16(d).

The Commission's nine-month deadline for the issuance of a final decision was originally May 25, 2006. Pursuant to a Stipulated Prehearing Order, however, the Parties agreed to schedule the evidentiary hearing *after* the nine-month deadline – during the week of July 12, 2006. In effect, the Parties agreed to waive the nine-month deadline for the issuance of the Commission's final decision and order in this matter.

Moreover, the resolution of the ratemaking issues in the 2006 Test Year Rate Case largely depended on the Commission's Decision and Order in a related proceeding, In re Public Utilities Commission, Docket No. 2006-0021 ("Investigation Docket"), which was on appeal before the Intermediate Court of Appeals of the State of Hawai'i ("ICA"). On December 5, 2007, the Parties requested that the Commission defer any further action in the 2006 Test Year Rate Case pending final resolution of the ICA appeal and the Investigation Docket. On January 10, 2008, the Commission granted the Parties' request, effectively staying the 2006 Test Year Rate Case during the pendency of the ICA Appeal.

---

. . . if the commission has not issued its final decision on a public utility's rate application within the nine-month period stated in this section, the commission, within one month after the expiration of the nine-month period, shall render an interim decision allowing the increase in rates, fares, and charges, if any, to which the commission, based on the evidentiary record before it, believes the public utility is probably entitled. The commission may postpone its interim rate decision for thirty days if the commission considers the evidentiary hearings incomplete. . . .

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. . . .

HRS § 269-16(d)(emphasis added).

<sup>2</sup>The parties in the 2006 and 2008 Test Year Rate Cases are HAWC, the City and County of Honolulu ("City"), 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 Hawai'i Administrative Rules § 6-61-62(a). HAWC, the City, and the Consumer Advocate are collectively referred to as the "Parties".

President Tsutsui and Speaker Say  
December 6, 2011  
Page 3

2008 Test Year Rate Case

While its 2006 Test Year Rate Case was pending before the Commission, HAWC filed a second application for a general rate increase on October 29, 2007. HAWC supplemented its application by providing additional financial information on December 11, 2007. HAWC's application in 2008 Test Year Rate Case was deemed complete as of December 11, 2007, pursuant to HRS § 269-16(d).

The Commission's nine-month deadline for the issuance of a final decision in the 2008 Test Year Rate Case was originally September 11, 2008. Pursuant to the Stipulated Prehearing Order, however, the Parties agreed to schedule the evidentiary hearing *after* the nine-month deadline – during the week of September 29, 2008. Thus, similar to the 2006 Test Year Rate Case, the Parties agreed to waive the nine-month deadline for the issuance of the Commission's final decision and order in the 2008 Test Year Rate Case.

The Parties' Settlement and Resolution of the ICA Appeal

On January 21, 2011, the Parties filed their Stipulation of Settlement Agreement in Lieu of Rebuttal Testimonies, Evidentiary Hearing and Briefs in both the 2006 and 2008 Test Year Rate Cases. The ICA then issued an opinion on May 31, 2011, affirming the Commission's decision in the Investigation Docket. Thus, due to the procedural history of this proceeding and the related appeal, the Commission was unable to render its final decision within the nine-month period set forth in HRS § 269-16(d).

Thank you for the opportunity to submit this report. Should you have any questions regarding this matter, please contact me or Bonita Y.M. Chang, Commission Counsel, at 586-2020.

Sincerely,



Hermina Morita  
Chair

HM:BYC:ps

Enclosures

c: Consumer Advocate (w/o enclosures)  
Hawaii-American Water Company (w/o enclosures)  
City and County of Honolulu (w/o enclosures)