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DEPT. COMM. NO. 26

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PUBLIC UTILITIES COMMISSION
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October 9, 2012

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

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

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12 OCT 10 12:00

Re: PUC Docket No. 2010-0064 -- Application of South Kohala Water Corporation f/k/a South Kohala Wastewater Corp. ("SKWC") For: 1) Amendment of its Certificate of Public Convenience and Necessity ("CPCN") Pursuant to Section 269-7.5 to Provide Non-Potable Water Service in South Kohala, Hawaii; and 2) Review and Approval of Rate Increases and Revised Rate Schedules For Wastewater Collection and Treatment Service

Dear President Tsutsui and Speaker Say:

The Public Utilities Commission ("Commission") issued its final Decision and Order in the above-referenced docket on October 1, 2012 that adopted a Proposed Decision and Order issued on June 29, 2012. In connection thereto, the Commission respectfully submits this report in accordance with Hawaii Revised Statutes ("HRS") § 269-16.

For public utilities having annual gross revenues of less than \$2,000,000, like SKWC in this docket, HRS § 269-16(f)(3) states that the Commission shall:

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.

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Similarly, for public utilities having annual gross revenues of more than \$2,000,000, HRS § 269-16(d) states:

(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.

For your information, the Commission encloses a copy of Decision and Order No. 30664, filed on October 1, 2012, and apologizes that this report comes more than thirty days past June 29, 2012, when the Commission issued Proposed Decision and Order No. 30508 in this docket.

The procedural history in this docket, described below, details why the Commission issued its decision in this docket past the deadline contemplated in HRS § 269-16(f).

On April 9, 2010, SKWC filed its Application, requesting Commission approval of both: (1) an amendment to SKWC's CPCN to provide non-potable water service; and (2) a rate increase for wastewater service that it is currently authorized to provide under its CPCN.

On April 29, 2010, the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate")¹ filed its Statement of Position Regarding Completeness of Application, citing several deficiencies, and thus recommending that the Commission find the Application to be incomplete.

On July 1, 2010, SKWC filed its Amended Application, in the form of a supplement to its Application to address the Consumer Advocate's noted deficiencies in its April 29, 2010 Statement of Position.

By order issued on August 23, 2010, the Commission deemed the Application complete as of July 1, 2010. Thus, the Commission's six-month deadline to issue a proposed decision and order under HRS § 269-16(f) was January 1, 2011.

On November 18, 2010, SKWC filed a "Motion and Memorandum Regarding Applicable Test Year," which requested that the Commission waive the requirements of HRS § 269-16(f) in

¹The parties to this docket are the Consumer Advocate, an ex officio party to this proceeding, pursuant to HRS § 269-51 and Hawaii Administrative Rules § 6-61-62(a), and SKWC (jointly, "Parties").

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order to approve a Stipulated Procedural Order, filed by the Parties on the same day, which scheduled the Commission to issue a proposed decision and order in this docket past the six-month deadline of January 1, 2011 under HRS § 269-16(f) ("Waiver Motion").

By Order issued on December 14, 2010, the Commission granted SKWC's Waiver Motion and approved, with modifications, the Parties' Stipulated Procedural Order, based on the finding that the Parties were unable to strictly comply with the six-month schedule that is contemplated in HRS § 269-16(f)(3). The Commission modified the Schedule of Proceedings in the Stipulated Procedural Order by, among other things: (1) inserting a deadline for a Stipulated Settlement Letter, if any, of January 24, 2011; and (2) moving the date for a proposed decision and order by the Commission from January 1, 2011 to February 28, 2011.

On January 7, 2011, the Consumer Advocate filed its Statement of Position, in which the Consumer Advocate did not object to SKWC's request to expand its authority to provide non-potable water service; however, it recommended a number of adjustments affecting the determination of revenue requirements for both the non-potable water service and wastewater service.

Subsequently, the Parties, believing their differences could be resolved, entered into settlement discussions.

By letter filed on January 25, 2011, SKWC requested an extension of time, from January 24, 2011 to February 7, 2011, for the filing of a Stipulation or a Rebuttal Statement of Position. SKWC stated that it did not object to the Commission extending all subsequent remaining deadlines (i.e., the Commission's scheduled date to issue a proposed decision and order) if the Commission grants the extension request. In addition, SKWC represented that the Consumer Advocate did not object to the extension request.

By Order issued on February 3, 2011, the Commission granted SKWC's January 25, 2011 extension request. The Commission, however, found that the Parties had not complied with the procedural schedule set by the Commission under HRS § 269-16(f)(3). Accordingly, the Commission removed from the procedural schedule the date for the Commission's issuance of a proposed decision and order.

The Parties thereafter filed several requests, on February 7, 11, and 28, 2011, March 8 and 21, 2011, and April 4, 2011, for extensions of time to file a Stipulation in lieu of a Rebuttal Statement of Position. The Parties generally represented in these extension requests that they were continuing to make progress on resolving their issues and were working on finalizing a Stipulation. By Orders issued on February 23, 2011, March 24, 2011, and April 8, 2011, the Commission granted these extension requests.

On April 6, 2011, the Parties filed their Settlement Agreement, which resolved all of the issues in the docket.

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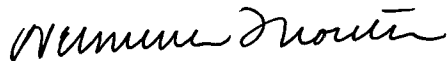
Thereafter, during its review of the Settlement Agreement, the Commission had several questions of the Parties and issued three rounds of information requests ("IRs") on June 1, 2011, July 7, 2011, and February 24, 2012. Responses to the IRs were filed on June 17, 2011, August 15, 2011, and March 9, 2012, respectively.

On June 29, 2012, the Commission issued its Proposed Decision and Order No. 30508. In July 2012, the Parties notified the Commission that they accepted Proposed Decision and Order No. 30508, in toto. Pursuant to Proposed Decision and Order No. 30508, SKWC filed its revised tariff sheets, rate schedules, and rules and regulations on August 21, 2012, and these were approved in the Commission's Decision and Order No. 30664, issued on October 1, 2012.

In sum, the Commission was unable to issue its decision in this docket within the timeframe contemplated under HRS § 269-16(f)(3) due to several factors, including: the Parties requested a waiver of the six-month deadline under HRS § 269-16(f)(3), and thereafter asked for a number of extensions to reach a settlement. In addition, this was a complicated docket, involving a request for both an expansion of SKWC's CPCN, as well as a request for a rate increase. The Commission ended up making several modifications to the Parties' Settlement Agreement in fairness to all of SKWC's ratepayers, but it needed adequate time to review the Settlement Agreement and formulate fair and reasonable modifications to the same.

Thank you for the opportunity to submit this report. Should you have any questions regarding this matter, please contact me at 586-2020 or Kaiulani Shinsato, Commission Counsel, at 586-2019.

Sincerely,



Hermina Morita
Chair

HM:KKS:do

Enclosure

c: Consumer Advocate (w/o enclosure)
Clifford K. Higa, Esq., SKWC (w/o enclosure)