

## **PUBLIC TESTIMONY AND DEPARTMENT RESPONSE:**

The following is the Department's best attempt at summarizing and answering the concerns and questions raised during the public hearing through written testimony:

### ***Are there any specific breaks in price for affordable housing?***

No, there are no specific breaks in price for affordable housing. All residential, multi-family, and hotel units are calculated by multiplying the cost per gallon by the Water System Standards associated with each type of use. In order to help affordable housing, the Department has introduced the concept of receiving offsets for grant funds given to the Department for infrastructure.

### ***It appears that the fees has shifted the burden of cost to single-family home developers, in order to ease the burden of costs for multi-family home, hotel and resort developers. How is this fair?***

The FRC charge for single-family residential units and multi-family residential, hotel and resort units were based on the Level of Service required for that customer class, as identified in the Water System Standards. The Water System Standards requires a max day demand of 750 gpd for single-family homes and a max day demand of 525 gpd for multi-family, hotel and resort units. The Needs Assessment Study showed that the cost of source, storage and transmission facilities required to provide 1-gallon of water was \$18.82. The total FRC charge amount was calculated by multiplying the amount of gallons required per the standards by the dollar amount it costs to provide each gallon. Therefore, there is no burden placed on single-family developers as opposed to multi-family, hotel and resort developers. It is a function of having different use standards.

### ***Why can't the costs be based on inflation?***

The previous FRC only included the cost for construction of expanding the water system. It did not include the costs for land acquisition, planning, design and financing the water system. Therefore, the previous FRC did not reflect the true cost of expanding the water system. If these costs are accounted for and the previous FRC is adjusted by the Engineering News Record, then the resultant cost is similar to the Department's proposed FRC. Simply using the inflation rate to escalate the cost would not include the excluded project costs and may not accurately track the construction bid climate.

### ***Upgrades to the water system benefits all users, so why do only new users have to pay for something that all users benefit from?***

Pursuant to Hawaii Revised Statutes 46-143, the FRC fee can only pay for expansion of the system, not system upgrades. An analysis of what portion of each project was included in the Needs Assessment study was attributable solely to expansion and only those costs were used to calculate the fee. By law, the FRC fee has to also include a credit for the amount that an applicant will subsequently contribute to the cost of existing improvements through user charges and other payments, and a credit for that amount.

### ***If a customer wants a bigger meter, would they have to pay the difference?***

Yes, even under our current rules, if a customer wants a bigger meter, they would have to pay the difference.

### ***Does the Department keep a record of all of meters used for agricultural uses and how does the Department assess the fee for agricultural uses?***

Yes, the Department keeps a record of meters that are used for agricultural purposes and meters that are receiving agricultural rates. The size of an agricultural meter is determined by an Applicant submitting to the Department water demand calculations. The Department, based on the submitted water demand calculations, determines the size of the meter required to adequately serve the property. The fee would be the cost associated with the meter size laid out in the new rules.

***The agricultural community is concerned about this fee as it relates to the proposed Food Safety Modernization Act, how does the Department intend to address that?***

This is the first time that the Department has learned of the proposed Food Safety Modernization Act. The Manager will be meeting with Mr. Ornellas to discuss the agricultural communities concerns and how the Department can help address those. This is also a concern for the Department of Water since the Department has an underlying assumption that non-potable water is used for agricultural operations when at all possible.

***What happened to the money generated when the Department last raised rates?***

Money generated through rate increases mainly goes to the operation and maintenance of the system and improving the aging infrastructure. Revenues generated through the FRC charges can only be used, by law, to fund expansion projects and cannot be used to replace aging infrastructure.

***What other sources of funding does the Department seek for its CIP and how much does the Department receive for capital improvements?***

The Department uses the water utility fund, the Build America Bonds, the State Revolving Funds loans, Facilities Reserve Charges, and grants to fund CIP. In terms of grants, the Department received a \$1.3M State grant as well as a \$2M SRF grant last year and got approved for a \$4.5M State grant this year (only \$450K has been released). However, most funds come with certain restrictions on use, and not all funds can be used on expansion related projects.

***What are the top priorities over the next two years and is there enough in the reserves to cover these without an increase?***

The CIP project list is a living document. The top projects are at different phases of completion (i.e. design, land acquisition, etc.). The projects are prioritized by health and safety requirements, operational need, future development needs (via other county agencies such as the Housing Department, Planning Department, etc.), infrastructure deficient system where restrictions on water service exists, etc. There is currently \$879,986.00 in the FRC account.

The CIP project list is separate and apart from the FRC rate study. The projects listed in the rate study are projects required to provide the projected needed amount of water supply. The study then uses the projected costs of those projects to determine, on average, how much it costs to supply each additional gallon of water. The money that the Department anticipates collecting, if the fee increase goes into effect, will cover the costs required per gallon.

***Did the Board consider phasing in the fees over the next two or three years?***

Yes, phasing in the fees was considered but ultimately the Board and the Department decided against it for the following reasons: 1) The artificially reduced FRC cost the first year would result in the Department not collecting enough to cover the expenses of providing the service; 2) In order to make up for the artificially reduced FRC fees, the Department, at the end of the proposed phasing would have to make up those lost costs by charging applicants 1.5x the amount actually required to provide service. The Board and the Department felt it was unfair to make those needing a meter at a future date to pay more than required simply because they came in at a different time; 3) Under the law, the Board can only charge an amount that is reasonably related to the benefit that is received by the Applicant, nothing more, thus making a higher charge at the end of the phasing period illegal.

***How much outreach did the Department do and was the Department attempting to hide this rule change by calling it a Development Fee in prior meetings?***

The Department held 7 community meetings during the month of January in 2013. The meetings were held in Kilauea, Kapaa, Lihue, Koloa, Kalaheo, Hanapepe and Kekaha. At the time of these community meetings, the Facilities Reserve Charge was referred to as the “Water System Development Fee” or WSDF. At that time, the Department thought that “Water System Development Fee” was a more appropriate name

to describe the Department's impact fee. It was not intended to cause any misunderstanding. However, to avoid further confusion, the name was changed back to "Facilities Reserve Charge" or FRC.

The Department made other outreach efforts (public service announcements, paid advertisements, letters to the public) to gather comments and input. As a result, the Department received about 160 written comments from the public. The Department also met with the Kauai Chamber of Commerce and the Kauai Board of Realtors in 2013, upon request to discuss the changes being considered at the time. The Department kept in touch with its 170+ stakeholders, and sent out courtesy letters prior to the recent November 10<sup>th</sup> Public Hearing.

A Public Hearing is part of the process when the Department makes recommendations to the Board of Water regarding changes to the Rules and Regulations. Public comments are taken into consideration when Board members decide to vote for or against the recommended proposal.

***Has the PUC reviewed this fee increase?***

By law, the municipal water companies are not subject to PUC review.

***Why doesn't the Department revisit the practice of installing second meters to help with the rising costs?***

The DOW is currently in the process of rescinding an administrative policy that did not allow the DOW to install service connections at a fixed cost for a second water meter that would service an Additional Dwelling Unit (ADU). If the existing administrative policy is rescinded, the DOW will be allowed to install water meters for ADU's at the DOW fixed meter cost if certain conditions apply.

***How come the percentage of increase in FRC fees varies by size of the meter?***

The FRC for water meters larger than 5/8-inch is calculated based on the ratio of meter capacity relative to a 5/8-inch meter capacity, as stated in the American Water Works Association (AWWA) Manual M22 – Sizing Water Service Lines and Meters.

The ratio of flow capacity for larger meter relative to the 5/8-inch water meter varies (as shown in the Needs Assessment Study, page 4-11) and therefore the percentage will also vary.

***Is the fee to pay for the actual meter, or the right to put in the meter?***

The applicant would not purchase a water meter, the water meter is the property of the DOW and DOW personnel would install the water meter into the water meter box. The FRC charge is the cost to provide water service to the meter.

***How come an individual who is connecting to an existing water line assessed the same amount as a brand new development which requires a new increased demand for water that is not already in existence?***

The FRC amount is calculated on a per gallon basis and all users are charged based on the system standards related to their type of use; the cost per gallon never changes. The Department typically debt finances an expansion project so that infrastructure is in place when someone applies for a meter, i.e. a water line, tank, and well already existing. The FRC fee amount is the individual's proportionate share of the costs required to put the infrastructure in place to them.

***Are there state laws preventing the Department from using rate payers to contribute to expansion costs?***

The Board can use rates paid by current customers to fund expansion requirements for new customers, however, the Board wanted to limit the amount of burden put on its current customers to fund new customers.

***Can the Board do a performance audit of the entire Department and use the information from the audit to assess its usefulness in justifying future rate increases and FRC increases?***

The Board has previously discussed their desire to do a performance audit, however, the information from the performance audit will have no bearing on the FRC increase. By law, the FRC cannot include any costs related to operation and maintenance and can only include costs related to expansion.

***How does the section relating to offsets meet the duties and requirements of the Department as provided under the Kauai Springs Inc. ruling?***

The offsets section of the rules is required pursuant to Hawaii Revised Statutes §46-141 et al. Offsets are related to when an applicant is required to build its own infrastructure to either meet an applicant's own timeline or project needs. The Department would evaluate the request for domestic use in accordance with Kauai Springs and in light of the fact that it is one of the public trust purposes.

***Is the new office building funded by the proposed increase in FRC rates?***

No, the new office building is not and cannot be funded by the proposed increase in the FRC rates.

***Can the Department go back to doing the “proportionate share refund” where, previously, the Department would refund a developer who installed a new transmission line a dollar amount related to each new customer that came on line within five years?***

The “proportionate share refund” process was an accounting nightmare in terms of determining how much each additional hook up had to pay in relation to where they were on the line and in terms of being a pass through entity for those transactions. Additionally, applicants would often wait until the time lapsed so that they wouldn't have to pay their proportionate share. The DOW finds that the offset provisions required by law are much more manageable.