

BOARD OF WATER SUPPLY

TOM SHIGEMOTO, CHAIR
JULIE SIMONTON, VICE CHAIR
KURT AKAMINE, SECRETARY

MICAH FINNILA, MEMBER
LAWRENCE DILL, MEMBER
KA'AINA HULL, MEMBER
TROY TANIGAWA, MEMBER



SPECIAL BOARD MEETING NOTICE AND AGENDA

Thursday, February 22, 2024
9:30 a.m. or shortly thereafter

Meetings of the Board of Water Supply, County of Kaua'i will be conducted in-person at the Department of Water Board Room, 2nd Floor located at 4398 Pua Loke Street, Lihue, Kauai, Hawaii, and remotely in accordance with Act 220, Session Laws of Hawai'i 2021 via interactive conference technology as follows:

Click on the link below to join on your computer or mobile app by VIDEO:

<https://us06web.zoom.us/j/86300507283>

Passcode: 129900

OR

Dial phone number and enter conference ID to call in and join by AUDIO:

Phone: 888 788 0099 US Toll-free

Phone Conference ID: 863 0050 7283

Please Note: If you do not provide a name, unique identifier, or alias when joining the meeting, you will be renamed to allow staff to address and manage individual guests. In the event of a lost connection the Board will recess for up to 30 minutes to restore the connection. If the connection cannot be restored within 30 minutes, the Board will continue the meeting on a future date that has been duly posted in accordance with HRS 92. If the visual link cannot be restored, the Board may reconvene with an audio-only link using the above dial-in phone number and conference ID. A lost connection only applies to remote connections provided as part of the remote meeting but does not apply to a public member being unable to access the meeting due to a connectivity issue on their end.

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

PUBLIC TESTIMONY

NEW BUSINESS

1. Discussion, Deliberation, and Possible Decision-Making on Proposed Declaratory Order Relating to and Recognizing the Controversies and/or Uncertainties Stemming from the Department of Water's Practice of Rendering Bill Adjustments to Customers Following the Replacement of a Failed Transponder
2. Manager's Report No. 24-10 Discussion, Deliberation, and Possible Decision-Making on Committee Recommendations to the Board on Proposed Amendments to the Department of Water, County of Kaua'i, Rules and Regulations ("Rules"), Part 2 for Water Service Connection

EXECUTIVE SESSION:

Pursuant to Hawai'i Revised Statutes (HRS) §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

ADJOURNMENT

WRITTEN TESTIMONY

The Board is required to afford all interested persons an opportunity to present testimony on any agenda item. The Board encourages written testimony at least two (2) business days prior to a scheduled Board meeting. At each Board meeting, the Board will accept oral and written testimony on any agenda item during the Public Testimony portion.

Please include:

1. Your name and if applicable, your position/title and organization you are representing
2. The agenda item that you are providing comments on; and
3. Whether you are a registered lobbyist and, if so, on whose behalf you are appearing.

Send written testimony to:

Board of Water Supply, County of Kaua'i
C/O Administration
4398 Pua Loke Street
Līhu'e, Hawai'i 96766

E-Mail: board@kauaiwater.org

Phone: (808) 245-5406

Fax: (808) 245-5813

Public Testimony

You do not need to register to provide oral testimony on the day of the meeting. Please note that public testimony is taken after the approval of the meeting agenda to ensure public testimony is received before any action is taken on an agenda item. The length of time allocated to present oral testimony may be limited at the discretion of the chairperson.

SPECIAL ASSISTANCE

If you need an auxiliary aid/service or other accommodation due to a disability, or an interpreter for non-English speaking persons, please call (808) 245-5406 or email board@kauaiwater.org as soon as possible. Requests made as early as possible will allow adequate time to fulfil your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

THE BOARD OF WATER SUPPLY OF THE COUNTY OF KAUAI

STATE OF HAWAII

DECLARATORY ORDER

The Board of Water Supply, (“Board”), upon its own motion, and having considered the circumstances relating to and recognizing the controversies and/or uncertainties stemming from the Department of Water’s (“Department”) practice of rendering bill adjustments to customers following the replacement of a failed transponder, as discussed at the Regular Meeting on February 15, 2024, and a Special Meeting on February 22, 2024, and in order to terminate a controversy and/or to remove uncertainty pursuant to Part 1, Section VI, Subsection 1 of the Rules and Regulations of the Department of Water, County of Kaua’i (“Rules”), hereby ISSUES ITS DECLARATORY ORDER:

1. The Department shall timely adjust each customer’s first monthly water bill that is to be rendered after the replacement of the customer’s failed transponder;
2. The adjustment will be calculated using the formula to equitably adjust bills when a meter fails to register or is found to be inaccurate pursuant to Part 2, Section X, Subsection 3 of the Rules;
3. The equitable adjustment formula pursuant to Part 2, Section X, Subsection 3 of the Rules is as follows: “the Department will refund the consumer the overcharge based on past consumption, for a period not exceeding six months; unless it can be proved that the error was due to some cause, the date of which can be fixed. In this latter case, the overcharge shall be computed back to, but not beyond, such date.”

4. The Department shall make the adjustment prior to sending the bill to the customer, and the adjustment shall be clearly reflected on the bill;

5. When the Department is unable to send a monthly bill to customers affected by a failed transponder, the Department shall send written notice, in lieu of a monthly bill, to the customer notifying the customer that the Department is reviewing the customer's monthly bill in order to make necessary adjustments consistent with this Declaratory Order, and that a subsequent water bill containing charges for actual water consumption for the missed month(s) will be rendered to the customer upon the conclusion of the Department's review;

6. The Department shall review all adjustments to monthly water bills following the replacement of a transponder that were made prior to this Declaratory Order, and shall take necessary and appropriate actions, consistent with this Declaratory Order, the Rules and all other applicable laws, to ensure prior adjustments strictly comport with the remedy provided in this Declaratory Order; and

7. The Department's authority to make adjustments to a customer's first monthly water that is to be rendered after the replacement of a failed transponder shall expire in one year from the date of this Declaratory Order or upon any subsequent Board action that renders this Declaratory Order moot, whichever occurs first.

DATED: Līhu'e, Kaua'i, Hawai'i, February 22, 2024.

CHAIR
BOARD OF WATER SUPPLY

DEPARTMENT OF WATER

County of Kaua'i

"Water has no Substitute – Conserve It!"

MANAGER'S REPORT No. 24-10

February 22, 2024

Re: Discussion, Deliberation, and Possible Decision-Making on Committee Recommendations to the Board on Proposed Amendments to the Department of Water, County of Kaua'i, Rules and Regulations ("Rules"), Part 2 for Water Service Connection

BACKGROUND:

Currently, the Rules do not allow the Department to render estimated billing. Part 2, Section VII, Article 1, titled "Meter Reading and Rendering of Bills" currently states:

Meters are read and bills are rendered regularly. Special readings will be made when necessary for closing of accounts or for other reasons.

The Board provided further guidance on what constitutes the phrase "rendered regularly" in Board Policy No. 9 which states:

1. Pursuant to Part 2, Section VII, Article 1 of our Rules and Regulations, meters shall be read and bills shall be rendered monthly.
2. The public shall be notified of any change in advance of such change by letter in the customer's bill or by publication.

The Rules for each of the other counties across the State allow for some form of estimated billing. The applicable Rules for each of the counties are as follows:

Honolulu Board of Water Supply, Section 2-203, Article 2	Maui County, Rules and Regulations, Section 3-6(b)	Hawaii County Board of Water Supply, Rules and Regulation Section 3-7
"Meter Reading and Rendering of Bills"	"Meter Reading and Rendering of Bills"	"Meter Reading and Rendering of Bills"
"Meters will be read and bills rendered monthly or bimonthly as determined by the Department. Special readings may be made, when necessary for closing accounts or other reason. If a meter cannot be read, an estimated bill will be rendered, said bill to be calculated whenever possible on prior consumption. "	"Meters will be read and bills rendered monthly or bimonthly as determined by the department. Special readings may be made, when necessary, for closing accounts or other reasons. If a meter cannot be read, an estimated bill will be rendered, said bill to be calculated whenever possible on prior consumption. "	(1) Meter reading and billings shall be on at least a bi-monthly basis, except for closing of accounts for special conditions with the approval of the Manager. (2) Closing bills for shorter periods of time shall be determined by the sum of the charges per water meter reading and prorated of the monthly service charge. If a meter cannot be read, an estimated bill will be rendered. "

RECOMMENDATION:

1. It is recommended that the Rules Committee make findings that estimated billing is allowed to continue to bill and receive revenue while water metering equipment is either upgraded and/or replaced.
2. It is also recommended that the Rules Committee report to the Board the need for an amendment to Part 2, Section VII, Subsection 1 of the Rules that expressly authorizes the Department to render estimated billing by adding language that mirrors the Rules of the Honolulu Board of Water Supply and/or Maui County.

Attachment(s): Ramseyer Format Proposed Amendments to the Department of Water, County of Kaua'i, Rules and Regulations ("Rules"), Part 2 for Water Service Connection

DEPARTMENT OF WATER

County of Kaua'i

"Water has no Substitute – Conserve It!"

Ramseyer Format.

Amendment to Part 2, Section VII, - "Meter Reading and Rendering of Bills", Rules and Regulations Department of Water, County of Kaua'i

Section VII, Article 1, Rules and Regulations, Department of Water, County of Kaua'i, is amended to read as follows:

Section VII – METER READING AND RENDERING OF BILLS

1. Meters are read and bills are rendered regularly. Special readings will be made when necessary for closing of accounts or for other reasons. If a meter cannot be read, an estimated bill will be rendered, said bill to be calculated whenever possible on prior consumption.

Material to repealed, if any, is bracketed. New material is underscored.