

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
THE GAS COMPANY, LLC dba HAWAII GAS) DOCKET NO. 2024-0304
)
For Modifications of General)
Order No. 9 Paragraph 2.3.f.2.)
Requirements Relating to Capital)
Improvements.)
_____)

DECISION AND ORDER NO. 41685

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For Modifications of General)	DECISION AND ORDER NO. 41685
Order No. 9 Paragraph 2.3.f.2.)	
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DECISION AND ORDER

By this Decision and Order,¹ the Public Utilities Commission ("Commission") approves Hawaii Gas' Application² for Modifications of General Order No. 9, subject to the conditions stated herein.

¹The Parties to this proceeding are THE GAS COMPANY, LLC dba HAWAII GAS ("Hawaii Gas" or "Company") and the DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 16-601-62(a).

²See "Application; Exhibits 1-3; Verification; and Certificate of Service," filed September 18, 2024 ("Application").

I.

BACKGROUND

A.

Procedural History

On September 18, 2024, Hawaii Gas filed its Application seeking a permanent exemption from, and a modification of, the Commission's General Order No. 9 ("G.O.9").³ Specifically, the Company requested an increase from \$500,000 to \$2,750,000 of the monetary threshold at which proposed capital expenditures must comply with G.O.9 requirements.⁴

The Consumer Advocate filed Information Requests ("IRs") on January 9, 2025,⁵ and Hawaii Gas submitted its IR Responses on January 31, 2025.⁶

The Consumer Advocate filed its Statement of Position on February 28, 2025.⁷

³See Application at 3.

⁴See Application at 1.

⁵See "Division of Consumer Advocacy's Submission of Information Requests," filed January 9, 2025.

⁶See "Applicant's Response to the Division of Consumer Advocacy's Submission of Information Requests, and Certificate of Service," filed January 31, 2025 ("Response to CA-IR-").

⁷See "Division of Consumer Advocacy's Statement of Position," filed February 28, 2025 ("CA's SOP").

Hawaii Gas filed its Reply Statement of Position ("RSOP") on March 21, 2025.⁸

B.

General Order No. 9

In 1965, the Commission issued G.O.9 to guide the standards for gas service by regulated gas providers in Hawaii.⁹ G.O.9 requires a gas utility to submit for Commission review "[p]roposed capital expenditures for any single project related to plant replacement, expansion or modernization, in excess of \$500,000 or 10 per cent of the total plant in service, whichever is less" ("G.O.9 Project").¹⁰ G.O.9 Projects must be submitted "at least 60 days prior to the commencement of construction or commitment for expenditure, whichever is earlier."¹¹

A gas utility is prohibited from including any portion of a G.O.9 Project in its rate base if, after reviewing the proposed expenditures, the Commission finds the G.O.9 Project is

⁸See "Applicant's Reply Statement of Position and Certificate of Service," filed March 21, 2025 ("RSOP").

⁹See "General Order No. 9; Standards for Gas Service Calorimetry, Holders & Vessels in the State of Hawaii" ("G.O.9"), available at: <https://puc.hawaii.gov/wp-content/uploads/2013/04/General-Order-9a.pdf>.

¹⁰G.O.9 at 2.3 f(2).

¹¹G.O.9 at 2.3 f(2).

“unnecessary or [] unreasonably in excess of probable future requirements for utility purposes . . .”¹² The utility may apply to the Commission to modify or permit an exemption of a G.O.9 provision, “[i]f unreasonable hardship to a utility or to a customer results from application” of any G.O.9 rule.¹³

C.

Application

Hawaii Gas requests the Commission permanently increase the capital expenditure threshold amount (“threshold”) for G.O.9 Projects from \$500,000 to \$2,750,000 (“proposed threshold”).¹⁴ Hawaii Gas argues that, because the threshold has not increased in sixty years to account for inflation and rising project costs, the Company is required today to submit relatively small capital expenditure projects and routine maintenance work for G.O.9 review.¹⁵

¹²G.O.9 at 2.3 f(2) (note the Commission may later allow a project to be included in the utility’s rate base if the Company subsequently demonstrates to the Commission that the project has become “necessary or useful”).

¹³See G.O.9 at 1.2(b).

¹⁴See Application at 14 (note the total amount would exclude customer and third-party contributions).

¹⁵See Application at 10.

Applying the Urban Hawaii Consumer Price Index ("CPI-U"), the Company determined that \$500,000 in 1965 would, in 2024, be equivalent in value to \$5,040,000.¹⁶ Consequently, the Company argues that capital expenditure projects that would have been comparatively small in 1965, and not subject to G.O.9 review, are encompassed by the G.O.9 threshold today.

Hawaii Gas argues that obtaining Commission G.O.9 approval for relatively small projects is "inconsistent with the Commission's original intent to only review major capital expenditures that could impact the utility's rate base."¹⁷ The Company notes that the threshold applies to projects with a total expenditure amount the lesser of \$500,000 or 10% of the total plant in service.¹⁸ In 1965, \$500,000 represented about 3.7% of Hawaii Gas' total plant in service.¹⁹ Today, \$500,000 represents approximately 0.16% of Hawaii Gas' total plant in service.²⁰ The Company asserts that raising the threshold to \$2,750,000,

¹⁶See Application at 11.

¹⁷See Application at 10.

¹⁸See Application at 10.

¹⁹See Application at 12. See also Response to CA-IR-4 at 20.

²⁰See Application at 10. See also Response to CA-IR-4 at 21 (the Commission notes the small discrepancy between the 0.16% stated in the Application, and Company IR Responses, which state that \$500,000 represents approximately 0.17% of plant-in-service).

or 0.94% of Hawaii Gas' current total plant in service, will bring G.O.9 review closer in alignment to its original intent.²¹

Hawaii Gas maintains that the current threshold presents an unreasonable hardship to the Company and its customers because seeking G.O.9 approval: (1) imposes a delay on the commencement and completion of small capital expenditure projects, and (2) causes the Company and its ratepayers to assume "higher project costs associated with obtaining" G.O.9 regulatory approval.²² The Company estimates that each G.O.9 application requires twelve (12) to eighteen (18) months of staff resources and engagement of external consultants.²³ Hawaii Gas states that, during this time, the cost of goods and services may rise and resources such as contractor availability and favorable material prices may be lost.²⁴

The Company argues that increasing the threshold to \$2,750,000 will reduce the regulatory burden on the Company, Commission, and Consumer Advocate.²⁵ For example, between 2018 and 2024, Hawaii Gas filed nine G.O.9 Projects for

²¹See Application at 13. See also Response to CA-IR-4 at 21.

²²See Application at 11.

²³See CA-IR-1 at 4 and 8.

²⁴See CA-IR-1 at 5-7.

²⁵See Application at 12-13.

Commission review.²⁶ Under the Company's proposed threshold, none of the nine projects would have required G.O.9 review.²⁷ Furthermore, of the Company's fifteen (15) projects forecasted for the next five years, only six (6) projects would be subject to Commission review if the Company's proposed threshold is approved.²⁸

D.

Consumer Advocate's Position

The Consumer Advocate emphasized that, as a starting point, Commission review of Hawaii Gas' capital expenditures is in the public interest.²⁹ G.O.9 review prevents the Company from including in rate base Company expenditures that are unnecessary or unreasonable.³⁰ In the absence of G.O.9 review "the Commission and the Consumer Advocate would have to scrutinize all plant additions subsequent to the test year of the utility's last rate case proceeding."³¹ Accordingly, the G.O.9 process expedites

²⁶See Application at 7-8.

²⁷See Application at 7-8.

²⁸See Application at 8-9.

²⁹See CA's SOP at 8.

³⁰See G.O.9 at 2.3 f(2).

³¹See CA's SOP at 8 (noting that G.O.9 review provides assurance to the general public and the Company's ratepayers that

“regulatory review of a utility’s significant capital expenditures” during rate case proceedings to the benefit of the utility and its customers.³²

Given this public interest benefit, the Consumer Advocate argued that any changes to the threshold should not be based purely on the CPI-U.³³ Instead, it stated that the Commission should seek to set a threshold that is high enough to avoid review of routine and necessary projects but low enough to ensure major projects are still subject to review prior to being placed in service.³⁴

To make this recommendation, the Consumer Advocate considered three major factors. First, the Consumer Advocate looked at the percentage of the proposed threshold (\$2,750,000) relative to the Company’s plant in service balance.³⁵ At 0.94% of Hawaii Gas’ current total plant in service, the Consumer Advocate

appropriately safe, reliable, and cost-effective investments are being prioritized).

³²See CA’s SOP at 8.

³³See CA’s SOP at 11 (noting no direct relationship between the change in the CPI-U and the change in the cost of providing utility service).

³⁴See CA’s SOP at 14.

³⁵See CA’s SOP at 12-13.

noted the proposed threshold is still significantly lower than the 10% stated in G.O.9 or the 3.7% of plant-in-service in 1965.³⁶

Second, the Consumer Advocate looked at the scope of projected future reductions in G.O.9 applications if the proposed threshold is approved.³⁷ Third, the Consumer Advocate conducted a retrospective survey of the percentage of total plant additions that would have fallen under the proposed threshold during the past ten years.³⁸ While the scope of Commission review of G.O.9 applications is reduced in both categories, the Consumer Advocate recommended alternative mechanisms for review of projects no longer subject to the G.O.9 process under the proposed threshold.³⁹ Those mechanisms are discussed in the "Conditions of Approval" section below.

³⁶See CA's SOP at 13 (note the Consumer Advocate states that the 1965 percentage was 2.7% while the Company places the amount at 3.7% (see Application at 12)).

³⁷See CA's SOP at 15-16 (noting a projected reduction from 14 to 5 applications between 2025 and 2029 if the proposed threshold is approved).

³⁸See CA's SOP at 13-14 (calculating that, if the proposed threshold had been in place for the past ten years, G.O.9 applications would have reflected 18% instead of 25% of total plant additions).

³⁹See CA's SOP at 13-16.

After reviewing each of these criteria, the Consumer Advocate concluded that it does not object to the approval of Hawaii Gas' Application, subject to conditions.⁴⁰

II.

DISCUSSION

The Commission finds that, given the effects of inflation and other changes over time, an update to the G.O.9 threshold is warranted. First, the Commission recognizes that, as a result of sixty years of inflation and rising costs, G.O.9 review is required for a broader scope of Company capital expenditures than in 1965. Consequently, the Company must engage in a more resource-intensive process to obtain Commission approval of projects that, Hawaii Gas states, have become increasingly small and routine in nature over the years.

Nonetheless, the Commission agrees with the Consumer Advocate that the effect of inflation on G.O.9 Projects, as indicated by the CPI-U, is not a sufficient basis alone to merit increasing the threshold. Similarly, the fact that Hawaii Gas must expend monetary and personnel resources on regulatory compliance is not, by itself, a persuasive basis for the Commission to increase the threshold.

⁴⁰See CA's SOP at 17.

Instead, the Commission looks to find a balance between the hardship that regulatory review imposes on the Company and the public interests that are served by that regulatory review. In other words, whether the hardship is unreasonable turns on the impact reduced regulatory oversight will have on the public interest.

Here, G.O.9 serves the public interest by preventing ratepayers from assuming the costs of unnecessary or unreasonable capital expenditures. Increasing the threshold from \$500,000 to \$2,750,000 will naturally decrease the amount of Commission oversight of Hawaii Gas' capital expenditures. However, the Commission finds that adopting the Company's proposed threshold would exclude G.O.9 Projects that are a nominal percentage of the Company's total plant-in-service, and thus would have a minimal impact on customer rates. Moreover, as discussed further below, the conditions agreed upon by the Parties provide an opportunity for Commission scrutiny of those capital expenditures under the proposed threshold that will be exempt in the future from G.O.9 review.

For the foregoing reasons, the Commission finds Hawaii Gas' proposed threshold strikes an appropriate balance between regulatory oversight of capital expenditures and reducing the burden of G.O.9 review.

A.

Conditions of Approval

The Consumer Advocate and the Company agreed to several conditions intended to ensure “sufficient scrutiny in years between rate cases” of those capital expenditures excluded from G.O.9 review under the proposed threshold.⁴¹

Accordingly, the Commission adopts the following conditions to the approval of Hawaii Gas’ Application:

1. Beginning in 2026, Hawaii Gas shall expand its Five-Year Capital Expenditure Budget Forecast to include a narrative for each project that is expected to cost \$1,000,000 or more for the upcoming year and each project that is expected to cost \$1,000,000 or more annually, with particular emphasis on the projects planned for the upcoming year. The narrative should include: (1) a brief description of the project; (2) the primary reason for the project; (3) the estimated cost of the project; (4) an explanation of how each project relates to Hawaii Gas’s overall strategic objectives, as well as how various projects may be interrelated and/or positively or adversely affected by existing or other future projects; and (5) an estimated timeline for the project, including start and completion dates for

⁴¹See CA’s SOP at 17. See also RSOP at 4 (Hawaii Gas stating it accepts the Consumer Advocate’s conditions with some modifications, which the Consumer Advocate does not object to).

each project. This expanded Five-Year Capital Expenditure Budget Forecast shall be filed annually by the last business day of February.⁴²

2. Beginning in 2026, Hawaii Gas shall file annually, by the end of May, a non-docketed report regarding projects completed during the prior calendar year ("Annual Completed Projects Report"), which shall include the following information:

A. **Blanket projects with a threshold of \$1,000,000.**

These projects would only need to be summarized by each Hawaii Gas district by providing the total number of projects completed and the total costs associated with those projects. No narrative will be required for "blanket" projects.

B. **Projects with a total cost of \$1,000,000 - \$ 2,750,000.** No additional narrative is required to explain the need for the project or the relationship to management's objectives, unless the project was not included in the capital expenditure budget forecast. Each of these projects will need to be itemized with the actual costs incurred, an explanation of any deviations of $\pm 15\%$ from the budgeted cost, and a general discussion of the reasons causing the variance.

C. **Projects with a total cost of \$2,750,000 or more.**

These projects will be reviewed in the capital expenditure

⁴²The Commission notes that the February deadline is a modification to the current filing deadline of January 1st.

application review process. The report should include an identification of the projects and the total completed cost for each project.

Additionally, based on issues previously presented in G.O.7 dockets, the Commission provides the following further instruction:

3. The Company is cautioned against segmenting capital expenditures for a project to circumvent the \$2,750,000 threshold and thus avoid G.O.9 review.

III.

ORDERS

THE COMMISSION ORDERS:

1. Hawaii Gas' Application to increase the G.O.9 threshold amount from \$500,000 to \$2,750,000, excluding customer and third-party contributions, is approved, subject to the conditions set forth herein.

2. Effective June 1, 2025, G.O. 9 paragraph 2.3.f.2 is modified by inserting the words "\$2.75 million, excluding customer and third-party contributions," to replace the current \$500,000 threshold.

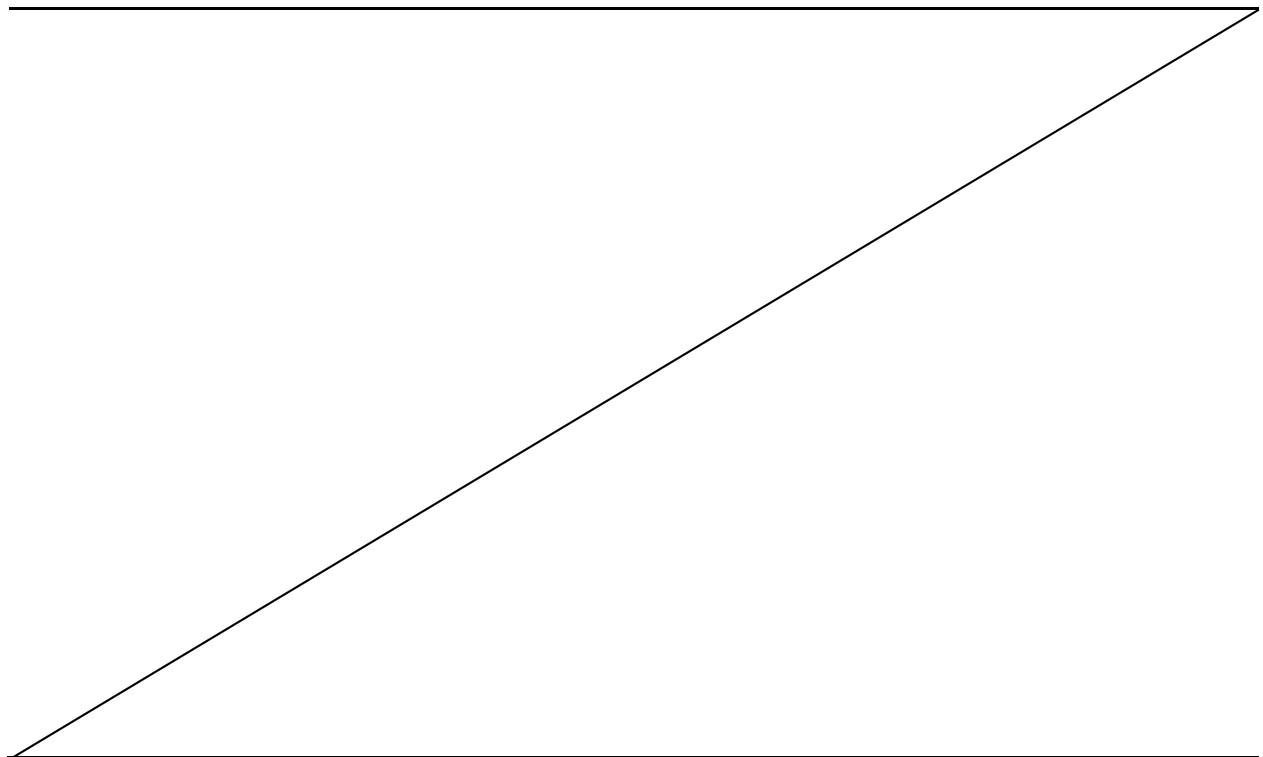
3. Effective June 1, 2025, G.O. 9 paragraph 2.3.f.1 is modified by inserting "the last business day of February" to replace "January."

4. Any Hawaii Gas G.O. 9 applications filed or pending with the Commission before the new threshold effective date of June 1, 2025, shall be governed by the existing \$500,000 threshold.

5. Hawaii Gas shall file an Annual Completed Projects Report by the last business day of May beginning in 2026, regarding projects completed during the prior calendar year, as set forth above.

6. Hawaii Gas shall file its expanded Five-Year Capital Expenditure Budget Forecast annually by the last business day of February beginning in 2026, as set forth above.

7. Except for the purpose of receiving the reports specified in Conditions of Approval (Section II.A.), this docket is closed unless the Commission orders otherwise.




8. Hawaii Gas's failure to comply with the conditions set forth herein may constitute cause to void this Decision and Order and may result in further regulatory action as authorized by State law.

DONE at Honolulu, Hawaii MAY 8, 2025.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Leodoloff R. Asuncion, Jr., Chair

By 
Naomi U. Kuwaye, Commissioner

By 
Colin A. Yost, Commissioner

APPROVED AS TO FORM:


Caroline C. Ishida
Commission Counsel

2024-0304.ljk

CERTIFICATE OF SERVICE

The foregoing Order was served on the date it was uploaded to the Public Utilities Commission's Case and Document Management System and served through the Case and Document Management System's electronic Distribution List.

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