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STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P. O. BOX 119
HONOLULU, HAWAII 96810-0119

MAR 16 1987

MEMORANDUM NO. 1987-7

TO: Heads of Departments and Agencies
Attention: Vouchering Offices

FROM: Russel S. Nagata, Comptroller

SUBJECT: HawTel Assessment of Late Payment Charges

In our Memorandum No. 1987-5 (dated February 27, 1987), we gave preliminary notice to all State agencies that Hawaiian Telephone Company (HawTel) planned to apply late payment charges on its State accounts effective April 1, 1987. In that memorandum, we also advised State agencies to make no change in the manner in which payments are vouchered to HawTel until we received advice from the Attorney General's office on the matter.

We have now received the requested legal advice. Attached for your information and files is a copy of a memorandum dated March 4, 1987, from the Attorney General's office, confirming that HawTel's late payment charges may be assessed against State accounts according to the company's plans. As explained in our Memorandum No. 1987-5, HawTel plans to compute the late payment charges at the rate of 1 percent per month, applied to billed amounts which remain unpaid for 45 days or more.

Since HawTel plans to begin making its late payment charges effective April 1, 1987, no retroactive payment of late payment charges is anticipated. On vouchers submitted for payments to HawTel on April 1, 1987 and thereafter, do not use payment-type code "E" as in the past, inasmuch as interest should not be accrued by the State any longer under Sec. 103-10, H.R.S. Instead, use payment-type code "C" and include in your payment any valid late payment charges billed by HawTel that do not duplicate State interest payments made by payment-type code "E".

Your staff should be encouraged to continue their efforts to make payment to HawTel, and to all vendors, within the standard of 20 working days as described in Sec. 563 of the Accounting Manual (Volume II). Conformity with that standard will avoid entirely the incurrence of any late payment charge.

RUSSEL S. NAGATA
Comptroller

Enc.

JOHN WAIHEE
GOVERNOR

WARREN PRICE, III
ATTORNEY GENERAL

CORINNE K. A. WATANABE
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
STATE CAPITOL
HONOLULU, HAWAII 96813
(808) 548-4740

March 4, 1987

The Honorable Russel S. Nagata
Office of the Comptroller
Department of Accounting and
General Services
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Nagata:

Hawaiian Telephone Company's Late Payment Charges

This is written in response to your request for an opinion as to whether Hawaiian Telephone Company may assess a late charge, pursuant to a Public Utilities Commission ("PUC") approved tariff, in spite of the provisions of section 103-10, Hawaii Revised Statutes. We answer in the affirmative.

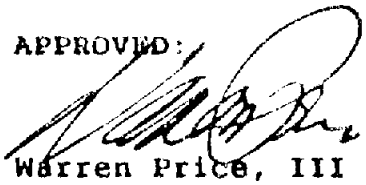
Any public utility's late payment fee assessed pursuant to PUC approved tariff, is applicable to state agencies. For reasons discussed at length in our previous legal memorandums to the Department of Accounting and General Services dated January 11, 1984, February 27, 1986, and April 3, 1986, section 103-10 does not exempt state agencies from being required to pay late payment charges in the amount imposed by a public utility's tariff or rule, when utility charges are past due as defined by that tariff or rule.

Very truly yours,

Patricia Ohara

Patricia Ohara
Deputy Attorney General

APPROVED:



Warren Price, III
Attorney General

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