BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----In the Matter of---- PUBLIC UTILITIES COMMISSION Instituting a Proceeding To Investigate Implementing a Decoupling Mechanism for Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited.	DOCKET NO. 2008-0274

ORDER INITIATING INVESTIGATION

FILED
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PUBLIC UTILITIES COMMISSION

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PUBLIC UTILITIES COMMISSION	)	Docket No. 2008-0274
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Instituting a Proceeding To	)	
Investigate Implementing a	)	
Decoupling Mechanism for Hawaiian	)	
Electric Company, Inc., Hawaii	)	
Electric Light Company, Inc.,	)	
and Maui Electric Company,	)	
Limited.	)	
	)	

ORDER INITIATING INVESTIGATION

By this Order, the commission initiates an investigation to examine implementing a decoupling mechanism for Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), and Maui Electric Company, Limited ("MECO") (collectively, the "HECO Companies") that would modify the traditional model of rate-making for the HECO Companies by separating the HECO Companies' revenues and profits from electricity sales.

I.

Background

On October 20, 2008, the Governor of the State of Hawaii, the State of Hawaii Department of Business, Economic Development and Tourism, the State of Hawaii Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate"), and the HECO Companies

entered into a comprehensive agreement designed to move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward "indigenously produced renewable energy and an ethic of energy efficiency."[1] A product of the Hawaii Clean Energy Initiative,[2] the Agreement is a commitment on the part of the State and the HECO Companies to accelerate the addition of new, clean resources on all islands; to transition the HECO Companies away from a model that encourages increased electricity usage; and to provide measures to assist consumers in reducing their electricity bills.

Included in the Agreement is a commitment by the HECO Companies to modify their traditional rate-making model by implementing a decoupling mechanism. Generally, decoupling is a regulatory tool designed to separate a utility's revenue from changes in energy sales. Decoupling, as asserted by its proponents, has the benefits of encouraging the substitution of renewable resources, distributed generation and energy efficiency for the utility's fossil fuels production (by reducing a utility's disincentive to promote these types of resources and

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[1]Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies ("Agreement"), at 1.

[2]On January 31, 2008, the State of Hawaii and the U.S. Department of Energy entered into a Memorandum of Understanding designed to establish a partnership, called the Hawaii Clean Energy Initiative. The partnership aims to have 70% of all of Hawaii's energy needs generated by renewable energy sources by 2030.

programs), while simultaneously protecting a utility's financial health from erosion as these types of programs go into effect.

Specifically, Section 28 of the Agreement, titled "Decoupling from Sales," states:

> The transition to Hawaii's clean energy future can be facilitated by modifying utility ratemaking with a decoupling mechanism that fits the unique characteristics of Hawaii's service territory and cost structure, and removes the barriers for the utilities to pursue aggressive demand-response and load management programs, and customer-owned or third-party-owned renewable energy systems, and gives the utilities an opportunity to achieve fair rates of return. The parties agree in principle that it is appropriate to adopt a decoupling mechanism that closely tracks the mechanisms in place for several California electric utilities, as follows:
>
> 1. The revenues of the utility will be fully decoupled from sales/revenues beginning with the interim decision in the 2009 Hawaiian Electric Company Rate Case (most likely in the summer of 2009).
>
> The utility will use a revenue adjustment mechanism based on cost tracking indices such as those used by the California regulators for their larger utilities or its equivalent and not based on customer count. Such a decoupling mechanism would, on an ongoing basis, provide revenue adjustments for the differences between the amount determined in the last rate case and:
>
> (a) The current cost of operating the utility that is deemed reasonable and approved by the PUC;
>
> (b) Return on and return of ongoing capital investment (excluding those projects included in the Clean Energy Infrastructure Surcharge); and
>
> (c) Any changes in State or federal tax rates.

> Adjustments shall occur on a quarterly basis, semi-annual, or annual based or the availability of the indices utilized. The adjustments will continue until such time that they are incorporated in the utility's base rates.
>
> 2. The parties agree that the decoupling mechanism that will be implemented will be subject to review and approval by the PUC.
>
> 3. The utility will continue to use tracking mechanisms for Commission-approved pension and other post-retirement benefits to ensure that the expenses are evened out for the ratepayer and are not subject to sudden and dramatic swing.
>
> 4. The Commission may review the decoupling mechanism at any time if it determines that the mechanism is not operating in the interests of the ratepayers.
>
> 5. The utility or the Consumer Advocate may also file a request to review the impact of the decoupling mechanism.
>
> 6. The Commission may unilaterally discontinue the decoupling mechanism if it finds that the public interest requires such action.
>
> 7. In order to implement the decoupling mechanism, the parties agree that HELCO and MECO will file for a 2009 test year rate case.[3]

As set forth above, the HECO Companies and the Consumer Advocate agreed that "[t]he revenues of the utility will be fully decoupled from sales/revenues beginning with the interim decision in the 2009 Hawaiian Electric Company Rate Case (most likely in the summer of 2009)." Accordingly, the commission finds it appropriate to institute a proceeding at this time to address the issues related to implementation of a decoupling mechanism for the HECO Companies.

[3]Agreement at 32-33.

In addition, to expedite the process, the commission will direct the HECO Companies and the Consumer Advocate to submit to the commission a joint proposal on decoupling that addresses all of the factors identified in their Agreement within sixty days of the date of this Order. The joint proposal should take into account the considerations and criteria set forth in a scoping paper on decoupling that will be issued by the commission in this docket.

II.

Discussion

A.

Commission Authority

Hawaii Revised Statutes ("HRS") § 269-7 states, in relevant part:

> (a) The public utilities commission and each commissioner shall have the power to examine the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, the value of its physical property, the issuance by it of stocks and bonds, and the disposition of the proceeds thereof, the amount and disposition of its income, and all its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable state and federal laws and with the provisions of its franchise, charter, and articles of association, if any, its classifications, rules,

> regulations, practices, and service, and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations . . .
>
> . . . .
>
> (c) Any investigation may be made by the commission on its own motion, and shall be made when requested by the public utility to be investigated, or by any person upon a sworn written complaint to the commission, setting forth any prima facie cause of complaint. A majority of the commission shall constitute a quorum.

HRS § 269-7(a) and (c) (emphasis added). Similarly, in HRS § 269-6, the commission is vested with "general supervision . . . over all public utilities."[4]

In addition to the commission's statutory authority described above, the commission notes that the Legislature recently enacted Act 177, Session Laws Hawaii 2007, codified as HRS § 269-6(b), which authorizes the commission "to consider the need for increased renewable energy use in exercising its authority and duties."

B.

Named Parties

Since they were signatories to the Agreement, and will be impacted by the outcome of this investigation, the commission

[4]Commission investigatory authority is also set forth in HRS § 269-15 and Hawaii Administrative Rules ("HAR") § 6-61-71.

will name as parties to this proceeding, the HECO Companies and the Consumer Advocate[5] (collectively, "Parties"). Their involvement and participation in this proceeding will assist the commission in developing a sound record for its investigation.[6]

C.

Procedural Matters

Any interested individual, entity, agency, or community or business organization may file a motion to intervene or participate without intervention in this docket. Motions to intervene or participate without intervention must comply with all applicable rules of HAR Chapter 6-61. Any individual, entity, agency, or community or business organization allowed to intervene or participate without intervention in this proceeding should be cognizant of the HECO Companies and the Consumer Advocate's agreement, noted above, that decoupling be implemented with the interim decision in HECO's 2009 test year rate case (Docket No. 2008-0083) (most likely in the summer of 2009). Any intervenor or participant, moreover, will not be allowed to broaden the issues or unduly delay the proceeding.

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[5]The Consumer Advocate is statutorily mandated to represent, protect, and advance the interests of all consumers of utility service and is an ex officio party to any proceeding before the commission. See HRS § 269-51; HAR § 6-61-62.

[6]In addition, the commission will provide a copy of this Order to Kauai Island Utility Cooperative, who while not a signatory to the Agreement, does provide electric utility service in the State.

If a protective order to govern the treatment of certain documents is desired, the Parties (and intervenors and participants, if any) shall file a stipulated protective order for the commission's review and approval within forty-five days of the date of this Order.[7] If the Parties (and intervenors and participants, if any) are unable to stipulate, each party or participant shall file proposed protective orders for the commission's review and consideration within the forty-five day filing deadline.

Within forty-five days from the date of this Order, the Parties (and intervenors and participants, if any) shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The stipulated procedural schedule that the Parties submit to the commission should, to the extent possible, allow the commission to complete its deliberations and issue a decision by the time an interim decision will be issued in Docket No. 2008-0083 (approximately the summer of 2009). If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file proposed orders for the commission's review and consideration within the same deadline.

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[7]The commission intends to rule on any motions for intervention prior to the deadline to file a protective order, i.e., within forty-five days from the date of this Order.

III.

Orders

THE COMMISSION ORDERS:

1. An investigative proceeding is initiated to examine implementing a decoupling mechanism for the HECO Companies that would modify the traditional model of rate-making for the HECO Companies by separating the HECO Companies' revenues and profits from electricity sales.

2. The HECO Companies and the Consumer Advocate shall submit to the commission a joint proposal on decoupling that addresses all of the factors identified in their Agreement within sixty days of the date of this Order.

3. The HECO Companies and the Consumer Advocate are parties to this investigative docket.

4. A motion to intervene or participate without intervention must be filed not later than twenty days from the date of this Order, pursuant to HAR § 6-61-57(3)(B). Motions to intervene or participate without intervention must comply with HAR Chapter 6-61, Rules of Practice and Procedure Before the Public Utilities Commission.

5. If a protective order to govern the treatment of certain documents is desired, the Parties (and intervenors and participants, if any) shall file a stipulated protective order for the commission's review and approval within forty-five days of the date of this Order. If they are unable to

stipulate, each party, (intervenor or participant, if any) shall file a proposed protective order for the commission's review and consideration within the same deadline.

6. Within forty-five days of the date of this Order, the Parties (and intervenors and participants, if any) shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The Parties' stipulated procedural schedule should, to the extent possible, allow the commission to complete its deliberations and issue a decision by the time an interim decision will be issued in Docket No. 2008-0083 (approximately the summer of 2009). If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file a proposed order for the commission's review and consideration within the same deadline.

DONE at Honolulu, Hawaii OCT 24 2008.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
John E. Cole, Commissioner

By _____
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

_____
Kaiulani Kidani Shinsato
Commission Counsel

decoupling.sl

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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