

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. )  
Regarding Integrated Resource )  
Planning. )  
\_\_\_\_\_ )

DOCKET NO. 03-0253

ORDER NO. 23117

Filed December 7, 2006

At 10 o'clock A .M.

*for* Broderick K. Kane  
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. ) Docket No. 03-0253  
Regarding Integrated Resource ) Order No. 23117  
Planning. )  
\_\_\_\_\_ )

ORDER

By this Order, the commission, on its own motion, establishes a new deadline date of January 31, 2007, for the Parties to file their position statements, if any, addressing the fuel diversity and fossil fuel generation efficiency matters set forth in Sections 111(d)(12), 111(d)(13), and 112(b)(3)(A) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005.<sup>1</sup>

I.

Background

The Parties' deadline to file their position statements, if any, on the PURPA matters governing fuel diversity and fossil fuel generation efficiency, is December 1, 2006.<sup>2</sup> By letter dated December 4, 2006, HECO, on behalf of the Parties,

<sup>1</sup>The Parties are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), LIFE OF THE LAND, and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

<sup>2</sup>See Prehearing Order No. 23022, filed on November 14, 2006; and commission's letter, dated August 9, 2006.

requests a two-month extension of time until January 31, 2007, to comply with Prehearing Order No. 23022. The commission will treat HECO's December 4, 2006 letter as a motion for extension of time under HAR §§ 6-61-23(a)(2) and 6-61-41.

II.

Discussion

HAR § 6-61-23(a)(2) states:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

. . . . .

(2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action on jurisdictional matters and where any order expressly provides that no enlargement shall be granted.

HAR § 6-61-23(a)(2).

"The excusable neglect standard is a strict standard requiring a showing that the failure to timely file with the commission was due to circumstances beyond a movant's control."<sup>3</sup>

In support of its extension request, HECO states:

On December 1, 2006, [HECO] submitted a copy of the attached extension request to the Consumer Advocate but inadvertently did not file the extension request with the Commission. Although all parties had concurred with the request for extension (as indicated in the December 1, 2006 letter) and the letter request

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<sup>3</sup>In re Public Util. Comm'n, Docket No. 05-0195, Order No. 22040, filed on September 21, 2005, at 3 (footnote and citations therein omitted).

and the required copies had been prepared in time to make the filing, [HECO] failed to deliver the original and copies to the Commission's office. HECO apologizes to the Commission and its staff for this error.

As stated in the attached letter, on behalf of the parties, HECO requests an extension of time, until January 31, 2007, for the parties to provide the Commission with their position statements on [PURPA], as amended by the Energy Policy Act of 2005, regarding fuel diversity and fossil fuel generation efficiency.

HECO's letter, dated December 4, 2006, at 1.

The commission finds that: (1) HECO's filing of its request for an extension of time with the commission by December 1, 2006, in accordance with HAR § 6-61-23(a)(1), was within HECO's control; and (2) HECO's inadvertence in not timely filing its request for an extension of time with the commission by December 1, 2006, does not constitute excusable neglect. Accordingly, the commission denies HECO's request for an extension of time under HAR § 6-61-23(a)(2).

Concomitantly, the commission notes that under PURPA, the commission must complete its consideration and determination of the PURPA matters governing fuel diversity and fossil fuel generation efficiency by August 8, 2008.<sup>4</sup> Thus, in this instance, the commission finds that an extension of time for the Parties' to provide their position statements on the PURPA matters will aid in the "just, speedy, and inexpensive determination" of these pending issues, consistent with HAR

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<sup>4</sup>16 U.S.C. § 2622(b)(3)(B).

§ 6-61-1.<sup>5</sup> Accordingly, the commission, on its own motion, establishes a new deadline date of January 31, 2007, for the Parties to file their position statements, if any, addressing the PURPA matters.<sup>6</sup>

III.

Orders

THE COMMISSION ORDERS:

1. HECO's request, filed on December 4, 2006, for an extension of time to file the Parties' position statements on the PURPA matters governing fuel diversity and fossil fuel generation efficiency, from December 1, 2006 to January 31, 2007, is denied under HAR § 6-61-23(a)(2).

2. The commission, on its own motion, establishes a new deadline date of January 31, 2007, for the Parties to file their position statements, if any, on the PURPA matters governing fuel diversity and fossil fuel generation efficiency.

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<sup>5</sup>See In re Maui Elec. Co., Ltd., Docket No. 2006-0186, Order No. 22837, filed on September 11, 2006 (the commission, on its own motion, adopted with modification the proposed Stipulated Prehearing Order belatedly submitted by the parties, finding that the issuance of a prehearing order will aid in the "just, speedy, and inexpensive determination" of the proceeding).

<sup>6</sup>Motions that do not involve the final determination of a proceeding may be determined by the chairperson a commissioner. See HAR § 6-61-41(e). The commission construes HAR § 6-61-41(e) as applying in this instance where the commission issues this Order on its own motion.

DONE at Honolulu, Hawaii DEC - 7 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By (EXCUSED)  
John E. Cole, Commissioner

APPROVED AS TO FORM:

  
Michael Azama  
Commission Counsel

03-0253.en

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23117 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: DEC - 7 2006