BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----In the Matter of----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 03-0371
	)	
Instituting a Proceeding to Investigate Distributed Generation in Hawaii.	)	

ORDER NO. 20832

Filed March 3, 2004

At 10:30 o'clock A .M.

Karen Higashi

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

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ORDER

I.

Purpose of Investigation

On October 21, 2003, the commission instituted an investigation to examine the potential benefits and impacts of distributed generation on Hawaii's electric distribution systems and market.[1] Through this docket, the commission intends to address the generic distributed generation issues affecting the electric industry in Hawaii. These issues include, but are not limited to:

(1) addressing interconnection matters;

(2) determining who should own and operate distributed generation projects;

(3) identifying what impacts, if any, distributed generation will have on Hawaii's electric distribution systems and market;

(4) defining the role of regulated electric utility distribution companies ("UDCs") and the commission in the deployment of distributed generation in Hawaii;

[1] See Order No. 20582, filed on October 21, 2003, in Docket No. 03-0371.

(5) identifying the rate design and cost allocation issues associated with the deployment of distributed generation facilities; and

(6) developing the necessary revisions to the integrated resource planning process, if necessary.[2]

All UDC's in Hawaii were made parties to this proceeding.[3] The Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate") was also made a party to this proceeding.[4]

II.

Motions to Intervene or Participate Without Intervention

On October 31, 2003, Life of the Land ("LOL") timely filed a motion to intervene. On November 6, 2003, the County of Kauai timely filed a motion to participate or intervene. On November 6, 2003, Hawaii Renewable Energy Alliance ("HREA") timely filed a motion to intervene. On November 6, 2003, the Department of Business, Economic Development, and Tourism

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[2]We also intend to address the issues raised in the informal complaint filed by Pacific Machinery, Inc., Johnson Controls, Inc. and Noresco, Inc. against HECO, MECO and HELCO on July 2, 2003 (Informal Complaint No. IC-03-098).

[3]Our records indicate that the UDCs currently operating in Hawaii and under our purview are: Hawaiian Electric Company, Inc. ("HECO"), Maui Electric Company, Limited ("MECO"), Hawaii Electric Light Company, Inc. ("HELCO"), and Kauai Island Utility Cooperative ("KIUC").

[4]Pursuant to Hawaii Administrative Rules ("HAR") § 6-61-62, the Consumer Advocate is an ex officio party in all commission proceedings.

("DBEDT") timely filed a motion to participate without intervention. On November 7, 2003, Johnson Controls, Inc. and Pacific Machinery, Inc. (hereinafter referred to as the "Hawaii Energy Services Companies"), timely filed their motion to intervene. On November 10, 2003, the County of Maui timely filed a motion to intervene. On November 10, 2003, Hess Microgen timely filed a motion to intervene. On November 10, 2003, The Gas Company, LLC ("TGC") timely filed a motion to intervene.[5] On November 18, 2003, HECO, HELCO, and MECO filed a joint response to the above-mentioned motions to intervene and/or participate indicating that they do not object to granting the motions to intervene and/or participate provided that the Movants do not broaden the issues or delay the proceedings.[6]

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[5]Unless noted otherwise, the entities (LOL, the County of Kauai, HREA, DBEDT, Hawaii Energy Services Companies, the County of Maui, Hess Microgen, and TGC) that filed motions to intervene and/or participate in this docket will be hereinafter referred to collectively as "Movants". On December 8, 2003, the commission received an e-mail, dated December 6, 2003, from the North Carolina Solar Center followed by the same letter by U.S. mail dated December 6, 2003, and filed on December 12, 2003, requesting to be designated as a participant in this proceeding. By e-mail the commission informed the North Carolina Solar Center that all motions to intervene or participate must comply with all applicable rules of HAR chapter 6-61, Rules of Practice and Procedure Before the Public Utilities Commission. The commission further informed North Carolina Solar Center that it must duly serve such motion on the parties to the docket in accordance with HAR chapter 6-61.

[6]HECO, HELCO, and MECO indicated that they do not oppose the motions to intervene and/or participate provided that Movants' participation in this generic proceeding does not result in delays in addressing the their application in Docket No. 03-0366 (HECO, HELCO, and MECO's application regarding a combined heat and power ("CHP")program), or if this Docket is consolidated with Docket No. 03-0366 then Movants' participation should be limited

III.

Discussion

In LOL's motion to intervene, LOL alleges, among other things, it is a non-profit organization concerned about energy policy and the impact energy choices have on land use, environment, quality of life, aesthetics, and health in the State of Hawaii. LOL further alleges that its interests are not adequately represented by the existing parties to the proceeding, and that its participation can assist in the development of a sound record.

In the County of Kauai's motion to participate or intervene, the County of Kauai alleges, among other things, that it is responsible to provide for and to protect the public health, safety, and welfare of its residents and to protect and advance the interests of the public. It further alleges that it is particularly concerned how the integrated resource planning process will be affected by the deployment of distributed generation projects on the island of Kauai. The County of Kauai asserts that it has a substantial interest as a large consumer of electricity and represents that its interests are not adequately represented by the existing parties to the proceeding.

In HREA's motion to intervene, HREA alleges, among other things, that it is a private, non-profit corporation, composed of developers, manufacturers, distributors, scientists,

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to the issues raised by the commission in this Docket. On March 2, 2004, the commission suspended Docket No. 03-0366.

engineers, and advocates in renewable energy. HREA further asserts that its members have substantial financial and other interests in this docket because its members are owners, employees, consultants or agents involved in and/or considering electrical generation, including distributed generation, and are concerned about access to the market and other issues. HREA further states that its interests are not adequately represented by the existing parties to the proceeding.

In DBEDT's motion to participate without intervention, DBEDT alleges, among other things, that it has broad authority to analyze comprehensive plans to provide for the full utilization and effective allocation of Hawaii's energy resources throughout the State of Hawaii. DBEDT also states its interest is directly related to promoting the public's energy needs through the analysis of energy resource programs. DBEDT further states that its interests are not adequately represented by the existing parties to the proceeding.

In Hawaii Energy Services Companies' motion to intervene, Hawaii Energy Services Companies allege among other things, that they are non-regulated businesses engaged in the provision of heating, cooling, energy conservation, and related equipment and services, including distributed generation. Hawaii Energy Services Companies assert that the parameters set for the provision of distributed generation in this docket will have a direct impact on the ability for non-regulated companies to compete for distributed generation customers within the

service territory of the utilities. Hawaii Energy Services Companies further assert that their interests are not adequately represented by the existing parties to the proceeding.

In the County of Maui's motion to intervene, the County of Maui alleges, among other things, that it is responsible to provide for and to protect the public health, safety and welfare of its residents and to otherwise maintain, protect and advance the interests of the public. The County of Maui also represents that its interests are in the treatment of distributed generation in the utilities' IRP process and as a large consumer of electricity on the island of Maui, their interests are not adequately represented by the existing parties to the proceeding.

In Hess Microgen's motion to intervene, Hess Microgen alleges, among other things, that it is in the business of both manufacturing combined heat and power ("CHP") equipment and operating the systems at a client's facility. Hess indicates that it has eleven (11) facilities in the State of Hawaii. Hess Microgen also represents that its interests are not adequately represented by the existing parties to the proceeding.

In TGC's motion to intervene, TGC alleges, among other things, that it is a fuel supplier to certain forms of distributed generation, including emergency back up generators and various engines used to generate electricity and heat. TGC asserts that it is a regulated gas utility whose product may be displaced by various forms of distributed electric generation in the form of CHP and asserts that it has an important business

and financial interests in the outcome of this proceeding. TGC further states that its interests are not adequately represented by the existing parties to the proceeding.

HAR §§ 6-61-55 and 6-61-56, which govern intervention and participation without intervention, require, among other things, the movant to state the facts and interest thereto. Further, HAR § 6-61-55(d) states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." Furthermore, HAR § 6-61-56(c)(3) requires movant's motion to participate without intervention to provide "[t]he extent to which the participation will not broaden the issues or delay the proceeding[.]"

To ensure a comprehensive examination of this matter, we invited all interested energy service providers and other business, environmental, cultural and community groups to participate in this docket as intervenors or participants so long as these persons or entities adhere to our administrative rules, specifically HAR Chapter 6-61 which governs intervention and participation in commission proceedings. *See* Order No. 20582.

Upon review, the commission finds that Movants who seek intervention complied with our administrative rules and their allegations are reasonably pertinent to the issues of this docket and do not unduly broaden them. We also find that Movants who seek only participation also complied with our administrative rules and their participation will not broaden the issues or

delay the proceeding. The commission, therefore, concludes that Movants' motions to intervene or participate without intervention should be granted. In accordance with HAR §§ 6-61-56(a), the extent or degree to which the County of Kauai and DBEDT may participate in this proceeding will be determined in our prehearing order to be issued subsequent to this order.

Further, we must admonish all intervenors and participants that their participation in this docket will be limited to only the issues determined in our prehearing order. The commission will preclude any efforts that will unreasonably broaden these issues, and unduly delay the proceedings. The commission will reconsider any intervenors' or participants' participation in this proceeding if, at any time during this proceeding, the commission determines that their efforts: (1) unreasonably broaden the pertinent issues in this docket; or (2) unduly delay the proceedings.

Finally, the commission will require the parties and participants to meet informally to formulate the issues, procedures, schedule, and the extent or degree of the County of Kauai's and DBEDT's participation for this proceeding. To provide some guidance, we suggest the schedule should consist, at a minimum, of the following:

1. Draft Position Statements
2. Information Requests, if any.
3. Responses to Information Requests
4. Parties' Final Position Statements

5. Prehearing Conference

6. Hearing (Presentations to the commission)

The commission will set the prehearing conference and hearing dates. The commission intends to hold the hearing in this docket no later than December 31, 2004, therefore, all deadlines including the submission of the Final Position Statements must be completed by November 30, 2004. The parties and participants may propose additional steps, as necessary, in their stipulated prehearing statement or proposed prehearing statements.

IV.

Orders

THE COMMISSION ORDERS:

1. LOL's, HREA's, Hawaii Energy Services Companies', the County of Maui's, Hess Microgen's and TGC's motions to intervene are granted.

2. The County of Kauai's and DBEDT's motions to participate without intervention are granted.

3. The parties and participants shall meet informally to formulate the issues, procedures, schedule and the extent or degree of the County of Kauai's and DBEDT's participation with respect to this docket, to be set forth in a stipulated prehearing order. The stipulated prehearing order shall be submitted for commission approval within 30 days from the date of this order. If unable to stipulate to such an order, each party shall submit its own proposed prehearing order for the

commission's consideration within 30 days from the date of this order.

DONE at Honolulu, Hawaii this 3rd day of March, 2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
Wayne H. Kimura, Commissioner

By _____
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

_____
Kevin M. Katsura
Commission Counsel

03-0371.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20832 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

WILLIAM A. BONNET
VICE PRESIDENT
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, HI 96840-0001

WARREN H. W. LEE
PRESIDENT
HAWAII ELECTRIC LIGHT COMPANY, INC.
P.O. Box 1027
Hilo, HI 96721-1027

EDWARD L. REINHARDT
PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
P.O. Box 398
Kahului, HI 96733-6898

ALTON MIYAMOTO
PRESIDENT & CEO
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street
Lihue, HI 96766

ALAN M. OSHIMA, ESQ.
KENT D. MORIHARA, ESQ.
OSHIMA CHUN FONG & CHUNG LLP
841 Bishop Street, Suite 400
Honolulu, HI 96813

THOMAS W. WILLIAMS, JR. ESQ.
PETER Y. KIKUTA, ESQ.
GOODSILL ANDERSON QUINN & STIFEL
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, HI 96813

DEBORAH DAY EMERSON, ESQ.
JOHN W. K. CHANG, ESQ.
DEPUTY ATTORNEYS GENERAL
STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 Queen Street
Honolulu, HI 96813

LANI D. H. NAKAZAWA, ESQ.
CHRISTINE L. NAKEA, ESQ.
OFFICE OF THE COUNTY ATTORNEY
COUNTY OF KAUAI
4444 Rice Street, Suite 220
Lihue, HI 96766

WARREN S. BOLLMEIER II, PRESIDENT
HAWAII RENEWABLE ENERGY ALLIANCE
46-040 Konane Place, #3816
Kaneohe, HI 96744

SANDRA-ANN Y.H. WONG, ESQ.
1050 Bishop Street, #514
Honolulu, HI 96813

GORDON BULL
BRANCH MANAGER
JOHNSON CONTROLS, INC.
CONTROLS GROUP
677 Ala Moana Boulevard, Suite 820
Honolulu, HI 96813

JIM REISCH
VICE PRESIDENT, GENERAL MANAGER - ENGINE DIVISION
PACIFIC MACHINERY, INC.
94-025 Farrington Highway
Waipahu, HI 96797

THOMAS C. GORAK, ESQ.
GORAK & BAY, L.L.C.
76-6326 Kaheiau Street
Kailua-Kona, HI 96740

BRIAN T. MOTO, ESQ.
CORPORATION COUNSEL
CINDY Y. YOUNG, ESQ.
DEPUTY CORPORATION COUNSEL
COUNTY OF MAUI
200 S. High Street
Wailuku, HI 96793

HENRY Q. CURTIS
VICE PRESIDENT FOR CONSUMER ISSUES
LIFE OF THE LAND
76 North King Street, Suite 203
Honolulu, HI 96817

Karen Higashi

Karen Higashi

DATED: March 3, 2004