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To: The "Stakeholders in the Energy Efficiency Docket",
Docket No. 05-0069, Before the Public Utilities Commission of
the State of Hawaii

Subject: Docket No. 05-0069
Energy Efficiency Docket

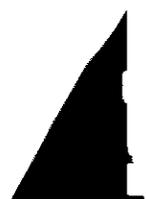
We would like to thank Mr. Freedman for his letter dated April 6, 2005 suggesting a collaborative process to address issues in the Energy Efficiency Docket, as well as for his prior efforts to organize a collaborative process that could be sponsored by the Hawaii Energy Policy Forum.

We agree that there should be an informal venue to identify, discuss and address, to the extent practical, the concerns and positions of the parties/participant. We are concerned, however, about the amount of time and effort that has been required for some of the more recent collaborative efforts (when measured against the results and when current requirements for already docketed matters are considered).

The purpose of this letter is to provide the parties/participant with a modified collaborative proposal for consideration with respect to the procedural steps, schedule and issues for the proceeding, including how such a process could be integrated into the docket.¹ In accordance with Order No. 21749, issued April 14, 2005 in this docket, HECO suggests that the parties/participant meet to discuss the proposal and work together to attempt to reach agreement on a stipulated prehearing order.

In summary, we suggest that the parties/participant consider a "mediated settlement" process, with the objective of reaching agreements (or partial agreements) on conceptual matters, setting up smaller working groups to work on details when conceptual agreements have been reached (in whole or in part), and focusing or narrowing the issues that will be the subject of the

¹ Order No. 21749 ordered the parties/participant to meet informally to determine the issues, procedures and schedule with respect to the subject docket, to be set forth in a stipulated procedural order to be submitted for Commission approval by May 16, 2005. If the parties are unable to stipulate to such an order, each party/participant shall submit its own proposed procedural order for the Commission's consideration.



more formal phase of the proceedings and hearings. (Support for the matters as to which agreements were reached also would have to be provided in the formal phase, since the Commission must ultimately approve or disapprove any such agreements.)

The benefit of a mediated settlement process is that the mediator can determine whether and to what extent it is more efficient for the mediator to meet with individual parties, groups of parties or all parties (without any limitation on the ability of the parties to work with other parties at the same time). Scheduling is simplified, and the mediator can facilitate the reaching of agreements and/or partial agreements.

The mediator is a key ingredient to the process, and should be someone with an understanding of the regulatory process and the ability to get parties to realistically record their “bottom lines” in confidence to the mediator (i.e., what they need to get out of the docket, and what they are willing to concede to get there), but without a perceived “stake” in the outcome.

I. Timeframe Concern with a Formal Collaborative Process

One concern that HECO has with a formal collaborative process is the time and resource commitment required. As noted in the April 6 letter, at page 4, “...the amount of time and effort that is required is not trivial and should be considered carefully.”

As stated in our Adequacy of Supply letter filed March 10, 2005, HECO anticipates reserve capacity shortfalls in 2005 and projects these shortfalls to continue at least until 2009, which is the earliest that HECO expects to be able to permit, acquire, install and place into commercial operation its next central station generating unit. Significant delays in implementing the measures in its proposed enhanced Energy Efficiency DSM programs could exacerbate the shortfalls. From HECO’s standpoint, the docket either needs to be expedited, or there needs to be a mechanism for the implementation of additional measures in the interim. Thus, HECO is willing to consider a potentially lengthier schedule (including the proposed settlement process), if the parties/participant are willing to discuss and consider terms and conditions, subject to Commission approval, under which additional measures could be implemented in the interim. HECO’s proposed schedule includes a step in which interim measures can be proposed to the Commission.



II. HECO's Proposal for the Energy Efficiency Docket

A. Procedural Steps

HECO's proposal for the Energy Efficiency Docket includes the following procedural steps:

(1) Mediated Settlement Discussions - The mediated settlement process should include an initial step in which information can be informally exchanged between the parties/participant so that their preliminary positions on the issues can be understood. HECO already has submitted substantial information on its proposed programs in Docket No. 04-0113, HECO's 2005 test year rate case.² The intended outcome of this process is a joint report to be submitted by the parties/participant documenting the agreements/partial agreements reached by the parties/participant on the issues for Commission review and approval, and identifying the areas where agreement could not be reached. HECO also proposes that the mediator provide to the Commission monthly status reports on the mediated settlement discussion process.³

(2) Preliminary Statement of Position ("SOP") - Each party/participant to the proceeding will file a preliminary SOP addressing in detail each of the issues to the docket where agreement could not be reached.

(3) Information Requests ("IRs") - The parties/participant will submit IRs and responses to IRs on the preliminary SOPs.

(5) Final Statement of Position - Each party/participant to the proceeding will file a final SOP addressing in detail each of the issues to the docket where agreement could not be reached (support would also be submitted for the agreements reached). The final SOP also provides each party/participant the opportunity to state its final and/or summary position on the issues to the docket.

(6) IRs- The parties/participant may submit IRs on the final SOPs.

(7) Panel Hearing - A panel hearing will be convened by the Commission, similar to the panel hearing conducted in the Distributed Generation Investigation in December 2004, Docket No. 03-0371, to allow for (a) the parties/participant to respond to questions posed by the Commission, (b) the cross-examination of the panel members by the other parties'/participant's attorney or representative, and (c) closing comments by each of the parties/participant.

² HECO requested approval of new and/or modified DSM programs, provided extensive testimonies, exhibits and workpapers on its proposed DSM programs, and responded to numerous information requests from the Consumer Advocate and Department of Defense.

³ The participant would be allowed to present recommendations on any of the issues in this docket provided that any recommendation be provided in the participant's Preliminary Statement of Position, followed by written testimonies in support of such position in accordance with the procedural schedule to be developed in this docket.



(8) Post Hearing Briefs - Each party/participant to the proceeding will file an Opening Brief and Reply Brief, if necessary, updating its final SOP with information that was generated in the panel hearing, as appropriate.

B. Procedural Schedule

HECO's proposed schedule for the Energy Efficiency Docket is as follows:

Mediated Settlement Discussions	June 1, 2005 through August 31, 2005
HECO's Interim Proposals	September 30, 2005
Responses to Interim Proposals*	October 14, 2005
Simultaneous Preliminary Statement of Position by the parties/participant	November 30, 2005
Information Requests on Preliminary Statements of Position	December 30, 2005
Responses to Information Requests on Preliminary Statement of Position	February 3, 2006
Simultaneous Final Statement of Position by the parties/participant	March 31, 2006
Information Requests on Final Statements of Position	April 21, 2006
Responses to Information Requests on Final Statements of Position	May 12, 2006
Prehearing Conference	May 30, 2006
Panel Hearings	Week of June 5, 2006
Simultaneous Post-Hearing Opening Briefs	4 weeks after transcripts
Simultaneous Post-Hearing Reply Briefs	3 weeks after Opening Briefs

* If there is only partial agreement or no agreement on the interim proposals.



C. Issues

By Order No. 21698, filed March 16, 2005, the Commission provided the following issues, numbered (1)-(5)⁴, to be examined in the Energy Efficiency Docket. HECO has proposed issues numbered (6) through (8), based on the possible need for a transition period until HECO's next general rate case (since the Energy Efficiency Docket is now separate from HECO's pending rate case) and Part III.F of the Commission's Framework for Integrated Resource Planning.

(1) Whether energy efficiency goals should be established and if so, what the goals should be for the State;

(2) Whether the seven (7) proposed DSM programs (i.e., the CIEE, CINC, CICR, REWH, RNC, RLI, and ESH programs), the RCEA program, and/or other energy efficient programs will achieve the established energy efficiency goals and whether the programs will be implemented in a cost-effective manner;

(3) What market structure(s) is the most appropriate for providing these or other DSM programs (e.g., utility-only, utility in competition with non-utility providers, non-utility providers);

(4) For utility-incurred costs, what cost recovery mechanism(s) is appropriate (e.g., base rates, fuel clause, IRP Clause);

(5) For utility-incurred costs, what cost level is appropriate;

(6) If utility-incurred DSM costs are to be included in base rates, what the transition mechanism for cost recovery will be until the respective utility's next general rate case;

(7) Whether the utility will be permitted to recover net revenues lost as a result of successful implementation of full-scale DSM programs, and the form of the recovery mechanism, if any (such as HECO's proposed mechanism to recover the shortfall in fixed cost contribution through base rates).

(8) Whether the utility will be provided with incentives to the utility to encourage participation in and promotion of full-scale DSM programs, given the utility's circumstances, the attributes of the programs, and the results to be attained from the programs, and the form of such incentives, if any (such as HECO's proposed allowance of a return on program costs to be included in base rates).

⁴ Order No. 21698, at page 12, inadvertently numbered issues (4) and (5) above as (1) and (2).



III. Summary

HECO believes that a mediated settlement process can facilitate a complete or partial settlement on the issues in the Energy Efficiency Docket. HECO has provided for the parties'/participant's consideration a proposed listing of procedural steps, schedule and issues. Under a separate transmittal, HECO requested Commission approval for a one month extension of time, until June 16, 2005, in order to work with the parties/participant to attempt to reach agreement on the issues, procedural steps and schedule to be set forth in a stipulated prehearing order to be submitted for Commission approval.

Sincerely,



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cc: C. Freedman

