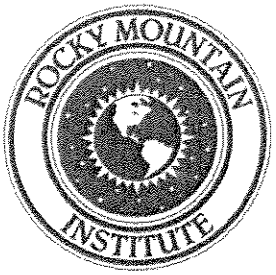
05-0069



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To: The "Stakeholder in the Energy Efficiency Docket," Docket No. 05-0069, Before the Public Utilities Commission

Subject: Docket No. 05-0069
Energy Efficiency Docket Process

The purpose of this letter is to encourage the parties in the Energy Efficiency Docket to get together soon to work out an efficient and constructive procedure and timetable for the docket. In particular, Rocky Mountain Institute (RMI) supports a professionally facilitated collaborative process to be incorporated in the Schedule of Proceedings. The parties need to respond to the Commission by June 16, 2005, on this matter.

Several suggestions have been made for a collaborative or mediation process that would allow the parties to address the issues in the docket informally prior to formal evidentiary procedures. By letter dated April 6, 2005, Carl Freedman suggested a collaborative approach to address the issues in the docket. By letter dated May 18, 2005, Hawaiian Electric Company (HECO) supported "an informal venue to identify, discuss and address, to the extent practical, the concerns and positions of the parties/participant." HECO suggested a "mediated settlement" process rather than a formal collaborative process because of concerns regarding the amount of time and resources required.

HECO's concerns regarding the time and resources required in this docket are important and probably shared by all of the parties. RMI believes, however, that these concerns can be better addressed in a *professionally facilitated collaborative process,* which would *resolve the issues more quickly* than either of the previously proposed processes.

How a facilitated collaborative process would work

The parties would agree on criteria (see appendix A for criteria) and funding for a team of professional facilitators. The team should include a trained neutral process facilitator based in Hawaii and one or more technical support persons. The importance of neutrality cannot be overstated. If an appropriate facilitation team is not found that has the support of all the parties to the docket, then neither this process, nor the mediated settlement process should go forward.

The Commission enumerated five issues to be resolved in Order No. 21698, and HECO enumerated three more in its May 18, 2005, letter. RMI believes that the collaborative group should prioritize these issues, and then work to resolve them in priority order. The process by which issues will be resolved could be worked out by the parties with the assistance and wisdom of an experienced facilitator/mediator. This will allow issues on

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which the collaborative reaches agreement to be sent forward to the Commission. The facilitation team would be specifically charged by the parties to meet specific process objectives and timelines in order to achieve this objective. We suggest establishing a set schedule of meetings with videoconference capability in order to maximize participation by all parties while staying on schedule.

There may be some issues on which the parties will be unable to agree by the end of the collaborative process phase. For these issues, the parties would have to resort to the hearing process that HECO proposed in its May 18, 2005, letter. The proposed facilitated collaborative timeline is provided below:

Proposed Facilitated Collaborative Timeline

June 13-15	Agreement of facilitated collaborative approach
July 8	Agreement on facilitator team and funding
July–September	Biweekly meetings of collaborative group
September 30	Submission on initial resolved issues
October 14	Framing of concerns regarding unresolved issues
October 17 - December 2	Biweekly meetings of collaborative group
December 16	Submission of additional resolved issues
	Submission of issues on which collaborative is unable to find resolution. Statement of positions regarding unresolved issues by parties/facilitator
February 28, 2006	Simultaneous final statement of position by parties
March 28	Information requests on final statements of position
April 28	Responses to information requests on final statements of position
May 12	Pre-hearing conference
May 22	Panel hearings
June	Simultaneous post-hearing opening briefs
July	Simultaneous post-hearing reply briefs

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Next Steps

In accordance with Order No. 21749, issued on April 14, 2005, in this Docket, RMI suggests that the parties/participants meet to discuss this proposal and work together to attempt to reach a stipulated pre-hearing order. RMI offers the following immediate steps as a suggestion for consideration by the parties:

(1) The parties should meet soon to discuss and agree on a pre-hearing statement and schedule of proceedings. We suggest a conference call at 10am on Tuesday, June 14, 2005, to discuss this proposal. Since several outer-island parties will be on Oahu on Wednesday, June 15, 2005, we can follow up this call with a face-to-face meeting before sending the final proposal to the Public Utility Commission.

(2) The parties should determine whether there should be an informal (collaborative or mediation) process included in the Schedule of Proceedings in the docket.

(3) If it is decided to proceed with a facilitated or mediated process, a source of funding should be identified. The PUC could be asked to provide funding and administrative oversight of the facilitation. If one or more of the parties offer to provide sufficient funding, such as the Public Utility Commission, an independent body that could administer the facilitation should be identified, so that the facilitator does not report directly to the funding parties.

(4) Parties would decide on candidates for a Hawaii based process facilitator/mediator that conform to the criteria in Appendix A. We suggest that the parties bring names of candidates to the meeting on June 15. The second member of the facilitation team is a content facilitator. Both RMI and HECO suggest that a person with experience in the regulatory process is preferred to help the group understand the range of alternatives for regulating demand side management, and their implications. However, it may be difficult to find a professional facilitator that is experienced in the regulatory process, neutral, and acceptable to all parties. Perhaps it could be suggested to the Commission that some technical support could be provided as a part of the "EPA-State Energy Efficiency and Renewable Energy Projects" identified in the Commission's Order No. 21698 that opened this docket. This would allow the Regulatory Assistance Project, which has significant expertise in demand side management regulation, and in working with collaborative groups, to support the effort.

(5) Either prior to or with the participation of the process facilitator, the parties would collectively determine the best process and charge the facilitator with specific process objectives and timelines.

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These suggestions are offered for consideration by the parties in the interest of moving forward to create an energy efficient future for Hawaii and to encourage consideration of a collaborative process in this docket. RMI looks forward to discussing this matter with all of the parties soon. We can host a conference call on our phone system at 10am HST Tuesday, June 14, 2005. Simply dial (970) 927 3851, and our switchboard will connect you.

If you have questions before then, please feel free to call me at (808) 329 4360 or (808) 895 7785 (cell).

Sincerely,

E. Kyle Datta,
Managing Director
Rocky Mountain Institute

This letter was mailed by first class mail to the stakeholders listed below. This service list includes the Commission, all parties and petitioners of record in Docket No. 04-0113 and Docket No. 05-0069 (to the addresses on the service list of Order No. 21698) and to additional petitioners in Docket No. 05-0069 known to me as of June 9, 2005:

Carlito P. Caliboso, Chairman, Public Utilities Commission of the State of Hawaii
John Cole, Department of Commerce and Consumer Affairs, Division of Consumer Advocacy
William A. Bonnet, Hawaiian Electric Company
Patsy H. Nanbu, Hawaiian Electric Company
Thomas W. Williams, Jr., Esq., Goodsill Anderson Quinn & Stifel
Dr. Kay Davoodi, Utilities Rates and Studies Office, NAVFAC Washington
Randal Y.K. Young, Esq., Naval Facilities Engineering Command Pacific
Henry Q. Curtis, Life of the Land
Brian T. Moto, Esq., Department of Corporation Counsel, County of Maui
Joseph Speroni
Warren Bollmeier, Hawaii Renewable Energy Alliance
Rick Reed, Hawaii Solar Energy Association

Cc: Carl Freedman

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Appendix A:
Example Questions for proposed process mediator (from Life of the Land)

LOL-MIR-1. What background do you feel is needed to mediate this docket?

LOL-MIR-2. What facilitation/mediation have you done? In particular, have you ever facilitated/mediated anything involving one or more of the parties to this docket?

LOL-MIR-3. Have you and/or your immediate family members (father, mother, siblings, in-laws, children) worked for, received a contract from, contributed your time to, donated to, or are shareholders of any party to this docket? Please elaborate.

LOL-MIR-4. Do you and/or your immediate family members belong to any environmental group, trade organization, and/or professional association?

LOL-MIR-5. Have you publicly stated your position on environmental or utility issues (including letters to the editor)?

LOL-MIR-6. Have you been briefed by, and/or discussed this docket, and/or these issues with any party in the past two years? Please elaborate.

LOL-MIR-7. Are you and/or your immediate family members close friends with senor management, directors, board members, and/or policy makers of any party to this docket?

LOL-MIR-8. Do you feel comfortable limiting your facilitation/mediation to the terms and conditions that may be agreed upon by all of the parties?

LOL-MIR-9. What are your sources of information for knowledge that you have acquired in the past year concerning this docket?

LOL-MIR-10. Do you believe that we are facing an energy crisis on Oahu? Please elaborate.

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Appendix A (continued)
Example Criteria for proposed content mediator (from RMI)

RMI-1: Experience in providing technical assistance to other collaborative processes regarding regulatory treatment of demand side management

RMI-2: Ability to articulate pros and cons of regulatory alternatives, as opposed to advocate

RMI-3: Strong grasp of utility economics and finance

RMI-4: Solid understanding of the value created by demand side management programs and distributed resources

RMI-5: Perceived by all parties as neutral (in prior work done with collaborative context, and by stakeholders in this docket)

RMI-6: Available to support this docket on a monthly basis (in person), and biweekly by video conference or teleconference.

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