

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Proposed Tariffs)
Filed by Hawaiian Electric)
Company, Inc., Hawaii Electric)
Light Company, Inc., and Maui)
Electric Company, Limited,)
Governing Distributed Generation)
and Other Related Matters.)
_____)

DOCKET NO. 2006-0497

ORDER NO. 23521

Filed June 28, 2007
At 10 o'clock A .M.

Karen Higashi.
Chief Clerk of the Commission

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
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STATE OF HAWAII

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Karen Higashi.

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Docket No. 2006-0497
Order No. 23521

ORDER

By this Order, the commission: (1) approves the Parties' waiver of hearing on the PURPA interconnection standards issue;¹ and (2) grants the Parties' request for an extension of time, from June 22, 2007 to August 10, 2007, to submit their stipulation identifying the agreed-upon remaining issues,

¹The Parties in this proceeding are: (1) Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, the "HECO Companies"); (2) the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), an ex officio party pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a); (3) Hawaii Renewable Energy Alliance ("HREA"); (4) Chapeau, Inc., dba BluePoint Energy, Starwood Hotels and Resorts Worldwide, Inc., and Hawaii Health Systems Corporation (collectively, the "BluePoint Energy Intervenors"); (5) JW Marriott Ihilani Resort & Spa, Waikoloa Marriott Beach Resort & Spa, Maui Ocean Club, and Wailea Marriott (collectively, the "Marriott Intervenors"); (6) Kahala Senior Living Community, Inc. ("Kahala SLC"); and (7) the United States Combined Heat and Power Association ("USCHPA").

The term "PURPA interconnection standards," as used in this Order, refers to the federal interconnection standards set forth in Section 2621(d)(15) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005 ("EPACT"). See 16 U.S.C. § 2621(d)(15).

procedural steps, and schedule for this proceeding, or for each of the Parties to submit its own proposed stipulation, in the event they are unable to agree on a joint procedural stipulation; provided that the Parties shall jointly file, by July 10, 2007, a statement outlining the reasons in support of their recommendation that the commission decline to adopt the PURPA interconnection standards.

I.

Background

A.

Docket No. 03-0371

On August 8, 2006, the commission, in In re Public Util. Comm'n, Docket No. 03-0371, solicited comments on whether the commission should adopt, modify, or decline to adopt in whole or in part, the PURPA interconnection standards, including the extent to which the electric utilities have already met the PURPA interconnection standards.² On September 8, 2006, the HECO Companies and the Consumer Advocate submitted comments on the PURPA interconnection standards issue.³

²Docket No. 03-0371, Commission's letter, dated August 8, 2006.

³Docket No. 03-0371, HECO Companies' letter, dated September 8, 2006; and Consumer Advocate's letter, dated September 8, 2006.

B.

Docket No. 2006-0497

On December 28, 2006, the commission opened this investigative docket to review and address: (1) the proposed tariffs (standby service and interconnection) filed by the HECO Companies; and (2) the PURPA interconnection standards issue.⁴ The commission named the HECO Utilities and the Consumer Advocate as parties.⁵

Following public notice and the completion of public hearings, the commission, on April 19, 2007, granted intervention to HREA, the BluePoint Energy Intervenors, the Marriott Intervenors, Kahala SLC, and USCHPA.⁶ In addition, with respect to the filing of a procedural stipulation, the commission instructed:

By June 22, 2007, the parties shall submit a stipulation identifying the agreed-upon remaining issues, procedural steps, and schedule for this proceeding, for the commission's review and approval, while remaining cognizant that the deadline for commission action on the PURPA interconnection standards issue is on or about August 7, 2007. In this regard, the commission intends to prioritize the PURPA interconnection standards issue, and the parties shall do so likewise.

If the parties are unable to agree on a stipulation, each party shall submit its own proposal that identifies the remaining issues, procedural steps, and schedule for this proceeding, by June 22, 2007.

Order No. 23373, Ordering Paragraph ¶ 6, at 26 (emphasis added).

⁴Order No. 23171, filed on December 28, 2006. In effect, Docket No. 03-0371 is superseded by Docket No. 2006-0497.

⁵Order No. 23171.

⁶Order No. 23373, filed on April 19, 2007.

By joint letter dated June 22, 2007, the Parties request an extension of time, from June 22, 2007 to August 10, 2007, to submit a stipulation that identifies the agreed-upon issues, procedural steps, and schedule for this proceeding. In support of their request, the Parties state that they have: (1) engaged in extensive discussions to better understand the HECO Companies' proposed interconnection and standby service tariffs, and acknowledge that some progress has been made in streamlining the issues, in particular, with respect to the proposed interconnection tariff;⁷ and (2) agreed on an informal schedule to continue their discussions and the exchanging of pertinent information, in their attempt to reach agreement (full or partial) on the issues in this proceeding (or even the resolution of said issues).

With respect to the PURPA interconnection standards issue, the Parties represent:

Following a discussion by the parties on this matter, the parties reached agreement on a joint recommendation that the Commission decline to adopt the PURPA interconnection standards. The parties concur that the interconnection tariff ultimately approved by the Commission as a result of the proceeding will address interconnection matters specific to Hawaii in a comprehensive manner and allow the Commission to be in compliance with the PURPA interconnection standards. This will allow the Commission to meet the two-year deadline to act on the PURPA sections referenced above, while allowing the parties sufficient time to review any revisions to Rule 14H proposed by the HECO Companies. If there are

⁷The Parties explain that their discussions thus far have included: (1) two technical meetings, on May 17, 2007 and June 20, 2007; (2) the HECO Companies' responses to informal requests by the Parties seeking additional information; and (3) the informal exchanging of preliminary, non-binding position statements between some of the Parties.

any remaining issues with respect to Rule 14H, the parties anticipate that they can be addressed by written submissions.

Parties' joint letter, dated June 22, 2007, at 2 (emphasis added). The Parties also propose that an evidentiary hearing (if necessary) on the agreed-upon issues commence during the week of January 14, 2008, subject to the Commission's availability and approval.

II.

Discussion

Sections 2621 and 2622 of PURPA, as amended by the EPACT, state in relevant part:

§ 2621. Consideration and determination respecting certain ratemaking standards

(a) Consideration and determination

Each state regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) of this section and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this chapter. For purposes of such consideration and determination in accordance with subsections (b) and (c) of this section, and for purposes of any review of such consideration and determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) Procedural requirements for consideration and determination

(1) The consideration referred to in subsection (a) of this section shall be made after public notice and hearing. The determination referred to in subsection (a) of this section shall be -

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 2622(a) of this title, and in sections 2631 and 2632 of this title, the procedures for the consideration and determination referred to in subsection (a) of this section shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) Implementation

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law -

(A) implement any such standard determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) of this section which is determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

.....

(d) Establishment

The following Federal standards are hereby established:

.....

(15) Interconnection

Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term "interconnection service" means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers; IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

§ 2622. Obligations to consider and determine

.....

(b) Time limitations

.....

(5)(A) Not later than 1 year after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 2621(d) of this title.

(B) Not later than two years after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by paragraph (15) of section 2621(d) of this title.

16 U.S.C. §§ 2621 and 2622 (boldface in original).

Ordering Paragraph No. 6 of Order No. 23373 requires the Parties to submit their proposed procedural stipulation for the commission's review and approval by June 22, 2007, in order to provide the commission with sufficient time to address the PURPA interconnection standards issue by the federally-imposed deadline of August 7, 2007. In response thereto, the Parties jointly request an extension of time, from June 22, 2007 to August 10, 2007, to submit their proposed procedural stipulation. Moreover, consistent with the commission's intent and directive to prioritize the PURPA interconnection standards issue, the Parties jointly recommend that the commission decline to adopt the PURPA interconnection standards.

Here, the commission finds that the Parties, by stating their joint, unanimous recommendation, together with their request to submit their proposed procedural stipulation by August 10, 2007 (following the expiration of the federally-imposed August 7, 2007 deadline for commission action on the PURPA interconnection standards issue), and their proposal to hold an evidentiary hearing (if necessary) on the agreed-upon issues in this proceeding during the week of January 14, 2008, voluntarily

and intentionally waive any hearing on the PURPA interconnection standards issue.⁸ Under the circumstances, the commission approves the Parties' voluntary and intentional waiver of hearing on the PURPA interconnection standards issue.⁹

Consistent with HAR § 6-61-23(a)(1),¹⁰ the commission also finds good cause to grant the Parties' request for an extension of time, from June 22, 2007 to August 10, 2007, to submit their stipulation identifying the agreed-upon remaining issues, procedural steps, and schedule for this proceeding, or for each of the Parties to submit its own proposed stipulation, in the event they are unable to agree on a joint procedural

⁸Cf. In re Young Bros., Ltd., Docket No. 2006-0396, Order No. 23311, filed on March 16, 2007 (the commission approved the parties' voluntary and intentional waiver of the six-month deadline for the commission's issuance of its final order, based on the procedural dates proposed by the parties in their stipulated regulatory schedule); and In re Kaupulehu Water Co., Docket No. 05-0124, Order No. 21958 (the commission approved the parties' waiver of the six-month deadline to issue a proposed decision and order, based on the procedural dates proposed by the parties in their stipulated prehearing order).

⁹Consistent with PURPA, as amended by the EPACT, issues involving the adoption or non-adoption of time-based metering and communications standards are also pending before the commission in In re Hawaii Elec. Light Co., Inc., Docket No. 05-0315, HELCO's 2006 test year rate case. See Docket No. 05-0315, Order No. 22903, filed on September 28, 2006. On May 3, 2007, the commission approved the parties' stipulation to waive the evidentiary hearing in Docket No. 05-0315. See Docket No. 05-0315, Order No. 23411, filed on May 3, 2007; see also Kenneth Rose & Karl Meeusen, Reference Manual and Procedures for Implementation of the "PURPA Standards" in the Energy Policy Act of 2005, Mar. 22, 2006, at 8 (PURPA, as amended by the EPACT, "appears to allow a range of consideration of the federal standards by state commissions and utilities," including a "paper" hearing, where the state commission makes a determination based on the written filings from interested persons).

¹⁰Pursuant to HAR § 6-61-23(a)(1), the commission for good cause shown may order a period enlarged if a written request is made before the expiration of the period originally prescribed.

stipulation;¹¹ provided that the Parties shall jointly file, by July 10, 2007, a statement outlining the reasons in support of their recommendation that the commission decline to adopt the PURPA interconnection standards.¹² Commission action on the PURPA interconnection standards issue will then follow.

III.

Orders

THE COMMISSION ORDERS:

1. The Parties' voluntary and intentional waiver of hearing on the PURPA interconnection standards issue is approved.

2. The Parties request, dated June 22, 2007, for an extension of time, from June 22, 2007 to August 10, 2007, to submit their stipulation identifying the agreed-upon remaining issues, procedural steps, and schedule for this proceeding, or for each of the Parties to submit its own proposed stipulation, in the event they are unable to agree on a joint procedural stipulation, is granted; provided that the Parties shall jointly file, by July 10, 2007, a statement outlining the reasons in support of their recommendation that the commission decline to adopt the PURPA interconnection standards.

¹¹The proposed procedural order or orders to be submitted by the Parties by August 10, 2007, should identify the dates of the evidentiary hearing ultimately agreed-upon by the Parties.

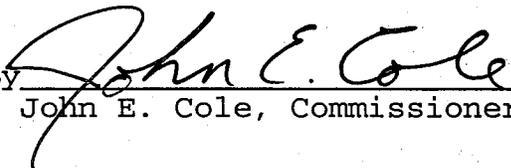
¹²See 16 U.S.C. § 2621(c)(2) (if the State authority declines to implement any standard established by subsection (d), such authority shall state in writing the reasons thereof).

DONE at Honolulu, Hawaii

JUN 28 2007

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

2006-0497.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23521 upon the following persons, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such person.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
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.
HAWAII ELECTRIC LIGHT COMPANY, INC.
MAUI ELECTRIC COMPANY, LTD.
P. O. Box 2750
Honolulu, HI 96840-0001

DEAN MATSUURA
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840-0001

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

Counsel for HECO, HELCO, MECO

CERTIFICATE OF SERVICE

Page 2

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

RENE McWADE
HAWAII HEALTH SYSTEMS CORPORATION
3675 Kilauea Avenue
Honolulu, HI 96816

WILLIAM W. MILKS, ESQ.
LAW OFFICE OF WILLIAM W. MILKS
American Savings Bank Tower
Suite 977, 1001 Bishop Street
Honolulu, HI 96813

Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD
HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH
SYSTEMS CORPORATION

BEN DAVIDIAN, ESQ.
LAW OFFICES OF BEN DAVIDIAN
P. O. Box 2642
Fair Oaks, CA 95628

Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD
HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH
SYSTEMS CORPORATION

TYRONE CROCKWELL
AREA DIRECTOR OF ENGINEERING
HAWAII & PACIFIC ISLANDS
2552 Kalakaua Avenue
Honolulu, HI 96815

CERTIFICATE OF SERVICE

Page 3

GREGG W. ROBERTSON
TREASURER
KAHALA SENIOR LIVING COMMUNITY, INC.
c/o ROBERTSON & COMPANY
Suite 2290, Pauahi Tower
1001 Bishop Street
Honolulu, HI 96813

THOMAS C. GORAK, ESQ.
GORAK & BAY, L.L.C.
1161 Ikena Circle
Honolulu, HI 96821

Counsel for JW MARRIOTT IHILANI RESORT & SPA; WAIKOLOA
MARRIOTT BEACH RESORT & SPA; MAUI OCEAN CLUB; and WAILEA
MARRIOTT; and for KAHALA SENIOR LIVING COMMUNITY, INC.

ERIC WONG, ENERGY POLICY CHAIR
UNITED STATES COMBINED HEAT AND POWER ASSOCIATION
980 Ninth Street, Suite 2200
Sacramento, CA 95814



Karen Higashi

DATED: JUN 28 2007