

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. )  
To Modify its Rule 14 to Establish )  
Interconnection Standards and to )  
Require an Interconnection )  
Agreement for Distributed )  
Generating Facilities. )  
Transmittal No. 02-01. )

DOCKET NO. 02-0051  
(CONSOLIDATED)

In the Matter of the Application of )  
HAWAII ELECTRIC LIGHT COMPANY, INC. )  
To Modify its Rule 14 to Establish )  
Interconnection Standards and to )  
Require an Interconnection )  
Agreement for Distributed )  
Generating Facilities. )  
Transmittal No. 02-02H. )

In the Matter of the Application of )  
MAUI ELECTRIC COMPANY, LIMITED )  
To Modify its Rule 14 to Establish )  
Interconnection Standards and to )  
Require an Interconnection )  
Agreement for Distributed )  
Generating Facilities. )  
Transmittal No. 02-01M. )

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

*K. Higashi*

ORDER NO. 20219

Filed May 30, 2003  
At 1:00 o'clock P.M.

*Karen Higashi*  
Chief Clerk of the Commission

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ORDER

I.

This docket arises out of a joint request by HAWAIIAN ELECTRIC COMPANY, INC. (HECO), HAWAII ELECTRIC LIGHT COMPANY, INC. (HELCO), and MAUI ELECTRIC COMPANY, LIMITED (MECO) (collectively, "utilities"), to establish standard

interconnection standards and a standard interconnection agreement for distributed generating facilities operating in parallel with the utility's respective electrical systems.

By Decision and Order No. 19773, filed on November 15, 2002, the commission conditionally approved the joint submission filed on September 23, 2002, by the utilities and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate)(collectively, "parties"), subject to certain observations.<sup>1</sup> The commission directed the utilities to submit their respective tariffs:

. . . incorporating any revisions made resulting from (A) their review of the commission's observations; and (B) the Consumer Advocate's consent thereto. The respective transmittal letters shall describe with particularity the utilities' responses to each of the commission's observations. Upon review of these tariffs, further commission action will follow.

Decision and Order No. 19773 also instructed the utilities to file annual and quarterly reports describing the status of distributed generation customers' efforts in interconnecting with the utilities' facilities.

On January 31, 2003, the utilities timely submitted their initial, joint annual report, without redaction (annual

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<sup>1</sup>The joint submission consists of: (1) modifications to Rule 14, consisting of a paragraph H; (2) interconnection standards (Appendix I to Rule 14); (3) the standard interconnection agreement (Appendix II to Rule 14); and (4) interconnection procedures (Appendix III to Rule 14).

The commission set forth its observations in Section III of Decision and Order No. 19773.

report).<sup>2</sup> The annual report identifies and describes the distributed generation customers' efforts in executing interconnection agreements with HECO, HELCO, and MECO, as applicable.

On February 19, 2003, the parties jointly submitted their agreed upon revisions (joint revised submission) to their initial submission, in compliance with Decision and Order No. 19773.

By Decision and Order No. 20056, filed on March 6, 2003, the commission approved the parties' joint revised submission, effective from March 21, 2003. Decision and Order No. 20056 further instructed the utilities to continue their filing of the annual and quarterly reports.

Subsequently, by letter dated April 30, 2003, the utilities requested an extension of time to submit their next joint quarterly report. The utilities explained:

1. The quarterly report includes "customer information that is confidential and proprietary[.]"
2. Accordingly, on April 30, 2003, they submitted a stipulated protective order for the commission's review and consideration.<sup>3</sup>
3. Once the stipulated protective order is approved and filed by the commission, they will file the joint quarterly status report with the commission.

In response thereto, the commission: (1) on May 7, 2003, approved and issued Stipulated Protective Order No. 20168;

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<sup>2</sup>As authorized by Decision and Order No. 19973, the fourth quarter report was combined with the annual, year-end report for 2002.

<sup>3</sup>Representatives for the utilities and Consumer Advocate signed the stipulated protective order.

and (2) on May 8, 2003, issued Order No. 20174, approving the utilities' request for an extension of time to file their joint quarterly report.

On May 9, 2003, the utilities timely submitted their joint quarterly report, with redactions (redacted quarterly report).<sup>4</sup> The utilities state that the quarterly report contains "customer information that is confidential and proprietary, and this information has been deleted."

On May 9, 2003, the utilities also submitted a redacted version of their annual report (redacted annual report), previously filed on January 31, 2003. In submitting their redacted annual report, the utilities state:

1. The annual report contains "confidential customer information, which should have been deleted and provided under a Protective Order."
2. The utilities request that the commission destroy all copies of the initial annual report, and replace it with the redacted annual report.

This order addresses two matters raised by the utilities' reports filed on May 9, 2003.

## II.

### A.

The redacted quarterly report, among other information, deletes the distributed generation customers' identities, electrical loads, capacity information, and various dates, from public review. As justification, the utilities state that

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<sup>4</sup>An unredacted version was also submitted under confidential seal.

"confidential customer information" has been deleted from the redacted version of the quarterly report.

Paragraph 5 of Protective Order No. 20168 provides in part:

If a party seeks to designate information as confidential, it must: (1) identify, in reasonable detail, the information's source, character, and location, (2) state clearly the basis for the claim of confidentiality, and (3) describe, with particularity, the cognizable harm to the producing party from any misuse or unpermitted disclosure of the information.

Upon review, the commission finds that the utilities' broad claim of "confidential customer information," with no further explanation or legal support, has not met the requirements of paragraph 5. The commission further notes that the utilities previously submitted the customer information at issue, without redaction, as part of its annual report, with no resulting evidence of cognizable harm.

The commission will order the utilities to jointly file, by June 6, 2003, a written statement justifying its reasons for deleting the customer information from its redacted quarterly report. The Consumer Advocate, at its option, may submit a response thereto, within five business days from the utilities' joint filing.<sup>5</sup> Further action from the commission will then follow.

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<sup>5</sup>If the Consumer Advocate declines to file a response, it shall notify the commission and utilities accordingly.

B.

The utilities request that the commission destroy the annual report currently on file, and replace it with the redacted version recently submitted.

Hawaii Administrative Rules § 6-61-8 states that, "[e]xcept as otherwise provided by law, all documents filed with or presented to the commission shall remain in the files of the commission." The annual report is also a "government record" as defined by Hawaii Revised Statutes (HRS) § 92F-3 of the Uniform Information Practices Act (Modified):

"Government record" means information maintained by an agency in written, auditory, visual, electronic, or other physical form.

HRS § 92F-3. See also HRS § 710-1017(2) ("government record").

The annual report, as filed in January 2003, is available for public inspection and photocopying during regular business hours, pursuant to HRS § 92F-11 and HRS §§ 92-21 and 92-24. The annual report, moreover, is subject to the retention and disposal requirements and procedures applicable to government records, in accordance with HRS § 94-3. In addition, the utilities' asserted basis for seeking a protective order, in the commission's view, was prospective in nature, not retroactive to the filing of the annual report.<sup>6</sup>

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<sup>6</sup>In this respect, in its letter dated April 30, 2003, the utilities noted: "The Quarterly Reports contain customer information that is confidential and proprietary, and HECO/HELCO/MECO will be filing a request for the Commission to issue a Protective Order in this docket."

Based on the foregoing reasons, the utilities' request to destroy the annual report filed on January 31, 2003, is denied.<sup>7</sup>

### III.

#### THE COMMISSION ORDERS:

1. By June 6, 2003, the utilities shall jointly file its written justification, consistent with Section II.A, above. Within five business days from the utilities' joint filing, the Consumer Advocate shall file its written response, or a notice stating that no response will be filed. Further action from the commission will then follow.

2. The utilities request to destroy the annual report, filed on January 31, 2003, is denied.

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<sup>7</sup>The utilities cite to paragraph 10 of Protective Order No. 20168 in seeking the destruction of the annual report.

Paragraph 10 states:

Any party may designate as confidential information any document or other information previously produced but not designated as confidential, provided that the party, in the manner provided in paragraph 5 above, specifies the subject-matter of such confidential information, the basis or the claim of confidentiality, and the cognizable harm from any misuse or permitted disclosure of the information. The party designating the information as confidential shall substitute the previously produced but not designated as confidential material with the identical material under designation as required in paragraph 8 above.

Upon review, the commission finds that paragraph 10 does not *a fortiori* authorize or bind the commission to act in a manner inconsistent with the applicable legal authorities noted in Section II.B, above. In addition, as stated at page 3 of Protective Order No. 20168, in the event any provision of the protective order conflicts with HRS chapter 92F, the Uniform Information Practices Act (Modified) controls.

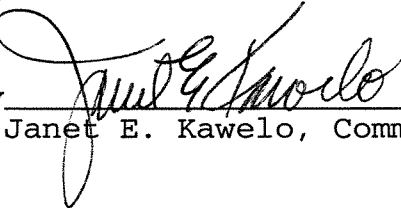


DONE at Honolulu, Hawaii this 30th day of May, 2003.


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:

  
Michael Azama  
Commission Counsel

02-0051.sls

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20219 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  
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Attorney for HECO, HELCO and MECO

  
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Karen Higashi

DATED: May 30, 2003