

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
APOLLO ENERGY CORPORATION)
Pursuant to Section 6-74-15,)
Hawaii Administrative Rules.)
_____)

DOCKET NO. 00-0135

ORDER NO. 20909

DEPT. OF CONSUMER AFFAIRS
STATE OF HAWAII
DIV. OF CONSUMER ADVOCACY
DEPT. OF BUSINESS, TRADE AND
CONSUMER AFFAIRS
STATE OF HAWAII

2004 APR 19 A 10:23

RECEIVED

Filed April 16, 2004
At 1:00 o'clock P .M.

Karen Higashi
Chief Clerk of the Commission

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

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
APOLLO ENERGY CORPORATION) Docket No. 00-0135
Pursuant to Section 6-74-15,) Order No. 20909
Hawaii Administrative Rules.)

ORDER

I.

Introduction

HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO") and APOLLO ENERGY CORPORATION ("Apollo") (collectively, the "Parties") filed their status reports on March 29 and 31, 2004, respectively, pursuant to Order No. 20818, filed on February 26, 2004. Apollo transmitted its status report with a motion for enlargement of time ("Motion"), seeking the commission's approval to extend the deadline to file the status report, from March 29 to 31, 2004. Apollo filed its Motion pursuant to Hawaii Administrative Rules ("HAR") § 6-61-23(a)(2).

On April 7, 2004, HELCO responded to Apollo's Motion.

II.

Discussion

Apollo, through its counsel, states that it miscalculated the deadline for filing its status report under the

commission's procedural rules governing the computation of time ("CT rules"), HAR §§ 6-61-21(e) and 6-61-22. Thus, under its calculation, the deadline for HELCO and Apollo to file their respective status reports was March 31, 2004. Apollo contends that, given the CT rules' "susceptibility to counsel's reasonable reading . . . there is good cause shown for the Commission to determine in its discretion that limited to this instance only, [Apollo's] neglect to file on March 29, 2004, under the extant circumstances is excusable."

HELCO takes no position on Apollo's Motion. Instead, HELCO notes that:

1. Apollo's interpretation of the CT rules "would lead to unintended consequences, such as staggered filing deadlines which would provide one party the opportunity to review and respond to matters raised in the other party's filing." However, it does not appear that Apollo has taken advantage of the filing of its status report two (2) days late. Rather, "Apollo's status report, in large part, simply engages in erroneous speculation concerning HELCO's motives in the negotiations with Apollo, and generally does not focus on the substance of the issues remaining between the parties, or respond to factual statements made in HELCO's status report."

2. It does not assert that Apollo's interpretation of the CT rules is unreasonable. On the other hand, "HELCO took the

precaution of verifying the due date of the status report with Commission counsel prior to the possible due date."¹

3. It "was not aware that Apollo would be filing its status report on March 31, 2004 until March 31, 2004."

The commission finds that, in this instance, Apollo's miscalculation of the deadline date under the commission's CT rules is susceptible to such an interpretation. Moreover, HELCO does not oppose Apollo's Motion. The commission, under the circumstances, approves Apollo's Motion. At the same time, Apollo is encouraged to verify future deadline dates with commission counsel, if necessary, consistent with Prehearing Order No. 17804, Section III.G, and HAR § 6-61-29(c)(3).

III.


Order


THE COMMISSION ORDERS that Apollo's motion for enlargement of time, filed on March 31, 2004, is granted. Apollo's status report, filed on March 31, 2004, is accepted as part of the docket record.

¹HELCO's counsel's oral verification with commission counsel on March 24, 2004, is consistent with: (1) Prehearing Order No. 17804, Section III.G, filed on June 22, 2000; and (2) HAR § 6-61-29(c)(3).

DONE at Honolulu, Hawaii this 16th day of April, 2004.

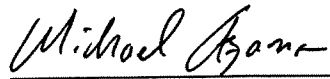
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

00-0135.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20909 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

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

WILLIAM A. BONNET
VICE PRESIDENT, GOVERNMENT AND COMMUNITY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840

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

SHAH J. BENTO, ESQ.
126 Queen Street
Suite 301
Honolulu, HI 96813

CERTIFICATE OF SERVICE - Continued

ANTHONY B. PACE
PATRICK J. O'MALLEY
APOLLO ENERGY CORPORATION
551 Pilgrim Drive, Suite D
Foster City, CA 94404



Karen Higashi

DATED: April 16, 2004