

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For approval of Low Sulfur Fuel Oil)
Contract Amendments with Chevron)
Products Company and Tesoro Hawaii)
Corporation and to include Contract)
Amendments Costs in HECO's Energy)
Cost Adjustment Clause.)
_____)

DOCKET NO. 04-0128

DECISION AND ORDER NO. 21522

Filed December 30, 2004
At 9:30 o'clock A.M.

for Brooke K. Kane
Chief Clerk of the Commission

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

ATTEST: A True Copy
BROOKE K. KANE
Administrative Director
Public Utilities Commission
State of Hawaii

Brooke K. Kane

Copies of the Application were served on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate").³ Pursuant to the procedural schedule set forth in Order No. 21218, filed on August 5, 2005, the Consumer Advocate served information requests upon HECO on August 24, 2004. HECO responded to the Consumer Advocate's information requests on September 10, 2004. On November 8, 2004, the Consumer Advocate filed its Statement of Position, indicating that it does not object to the Commission's approval of the fuel contracts and the inclusion of the contract costs in the ECAC.

II.

Background and Description of Contracts and Amendments

In Docket No. 97-0397, the commission approved two (2) fuel oil supply contracts - one with Chevron ("Chevron Contract") and a second with Tesoro, fka BHP Petroleum Americas Refining, Inc.⁴ ("Tesoro Contract") (collectively, referred to as the "Original Contracts").⁵ The seven-year term of the Original Contracts will expire on December 31, 2004. The terms and conditions of the Original Contracts remain essentially unchanged by the contract amendments. Two (2) key terms that remain

³Protective Order No. 21061, issued on June 17, 2004, govern the confidential information identified in the course of the proceeding and in connection with the Application.

⁴In June 1998, Tesoro Petroleum Corporation purchased all of the stock of BHP Petroleum Americas Refining, Inc. and thereafter changed its name to Tesoro Hawaii Corporation.

⁵See Decision and Order No. 16141, filed on December 31, 1997, in Docket No. 97-0397.

essentially unchanged are: (1) the formulas used to determine the price HECO will pay for the Low Sulfur Fuel Oil ("LSFO"); and (2) the terms regarding the quality of the LSFO to be provided under the contract amendments.

A.

Chevron Contract

The following is HECO's summary of the major contract amendments to the Chevron Contract at a level HECO deemed to be non-confidential⁶:

1. Amended the Delivery definition and the related Line Displacement Stock provision to add a reference to HECO's new Waiiau Pipeline to account for the discontinued use of the Chevron's Black Oil Pipeline, and to account for line displacement stock that was previously allowed in the Chevron Facilities and Operations Contract. (Exhibit D, pages 1, 8, and 10)
2. Amended the Term of Contract provision to reflect the extension of the term of the existing LSFO Contract for an additional ten years. (Exhibit D, page 3)
3. Amended the Quality provision to allow for an alternative laboratory test method for LSFO. (Exhibit D, page 4)
4. Amended the Price Per Physical Barrel provision to reflect the change in the Worldscale Protection & Indemnity Insurance coverage to the prevailing primary coverage of one billion dollars. (Exhibit D, page 5)
5. Amended the Indemnity provision to incorporate relevant provisions of the Chevron Facilities and Operations Contract that were previously referenced in the existing Chevron LSFO Contract. (Exhibit D, page 6)

⁶See, letter dated December 22, 2004 from HECO to the Commission regarding Docket No. 04-0128 - HECO LSFO Contract Amendments.

6. Amended the Invoices provision to clarify actual practices and allow for electronic transmission of invoices and clarify the invoice dispute process. (Exhibit D, page 12)
7. Amended the Contingencies provision to accommodate recent changes in business climate. (Exhibit D, page 16)
8. Amended the Notices provision to update the notification personnel for both parties. (Exhibit D, page 18)
9. The Illustrative Schedules of Prices, Addendum No. 1, with current period pricing components. (Exhibit D, page 18)

B.

Tesoro Contract

The following is HECO's summary of the major contract amendments to the Tesoro Contract at a level HECO deemed to be non-confidential⁷:

1. All references to BHP Petroleum Americas Refining Inc. were replaced by Tesoro Hawaii Corporation to reflect Tesoro's June 1988 purchase of BHP. (Exhibit D, page 19)
2. Amended the Term provision to reflect the extension of the term of the existing Tesoro LSFO Contract for an additional ten years. (Exhibit D, page 19)
3. Amended the Price provision to reflect the change in Worldscale Protection & Indemnity Insurance coverage to the prevailing primary coverage of one billion dollars. (Exhibit D, page 21)
4. Amended the Notices provisions to update the notification personnel for both parties. (Exhibit D, page 23)

⁷See, letter dated December 22, 2004 from HECO to the Commission regarding Docket No. 04-0128 - HECO LSFO Contract Amendments.

5. Amended the Product Specifications provision to conform to the LSFO specifications in the existing Chevron LSFO Contract. (Exhibit D, page 23)
6. Amended the Illustrative Schedule of Prices, Exhibit B, with current period pricing components. (Exhibit D, page 23)

III.

Discussion

HAR § 6-60-6 provides, in relevant part, that "[n]o changes in fuel and purchased energy costs may be included in the fuel adjustment clause unless the contracts or prices for the purchase of such fuel or energy have been previously approved by the commission." HAR § 6-60-6(2).

Upon review, we find the amendments to the low sulfur fuel supply contracts between HECO and Chevron and between HECO and Tesoro are reasonable and in the public interest. Accordingly, we conclude that the amendments to the Chevron and Tesoro contracts, as described in the Application, should be approved. However, questions still remain concerning HECO's ECAC and its continued use to recover fuel contract costs. Therefore, consistent with Decision and Order No. 16141, filed on December 30, 1997, in Docket No. 97-0397, the commission plans to examine the continued use of the ECAC⁸ to recover the various

⁸The ECAC is a provision of a rate schedule which provides for the increases or decreases or both, without prior hearing, in rates reflecting increases or decreases or both in costs incurred by an electric or gas utility for fuel and purchased energy due to changes in the unit cost of fuel and purchased energy. See, HAR § 6-60-6(1).

costs incurred pursuant to the amended fuel contracts in Docket No. 04-0113, HECO's pending rate case. In the interim, however, the commission will allow HECO to include in its ECAC the stated costs incurred pursuant to the amended fuel contracts, to the extent that these costs are not included in HECO's base rates.

IV.

Orders

THE COMMISSION ORDERS:

1. The amendments to the low sulfur fuel supply contract between HECO and Chevron are approved.

2. The amendments to the low sulfur fuel supply contract between HECO and Tesoro are approved.

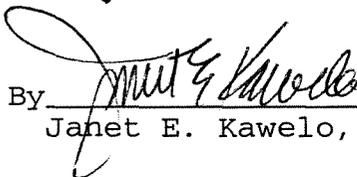
3. HECO may, on an interim basis, continue to recover fuel oil costs through ECAC to the extent that the costs are not recovered in HECO's base rates, pursuant to HAR § 6-60-6. The continued use of the energy cost adjustment clause to recover the various costs incurred pursuant to the amended contracts, discussed herein, will be examined in Docket No. 04-0113.

DONE at Honolulu, Hawaii December 30, 2004.

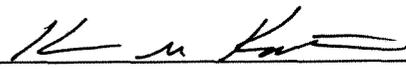
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel

04-0128.s

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21522 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

WILLIAM A. BONNET
VICE PRESIDENT, GOVERNMENT AND COMMUNITY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, HI 96840-0001

PATSY H. NANBU
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, HI 96840-0001

Sandra C. Leong
for Karen Higashi

DATED: December 30, 2004