

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC.)
HAWAII ELECTRIC LIGHT COMPANY, INC.)
MAUI ELECTRIC COMPANY, LIMITED)
)
For approval of Inter-island Fuel)
Contract Amendments with Chevron)
Products Company and Tesoro Hawaii)
Corporation and to include Contract)
Amendments Costs in HECO, HELCO and)
MECO's Energy Cost Adjustment)
Clauses.)
_____)

DOCKET NO. 04-0129

DECISION AND ORDER NO. 21523

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

Brooke K. Kane
for Chief Clerk of the Commission

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

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

Brooke K. Kane

recovered in Applicants' respective base rates, pursuant to Hawaii Administrative Rules ("HAR") § 6-60-6.

Applicants served copies of the Application on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"). Pursuant to the procedural schedule set forth in Order No. 21218, filed on August 5, 2004, the Consumer Advocate served information requests upon Applicants on August 24, 2004. Applicants 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 contract amendments and the inclusion of the contract costs in Applicants' respective ECACs.

II.

Background and Description of Contracts and Amendments

In Docket No. 97-0396, the commission approved two (2) fuel contracts for the supply of No. 6 fuel oil, Diesel and Jet fuel - one with Chevron ("Chevron Contract") and the second contract with Tesoro, fka BHP Petroleum Americas Refining, Inc.,¹ ("Tesoro Contract") (collectively referred to as the "Original Contracts").² The Original Contracts will expire on December 31, 2004. The terms and conditions of the Original

¹On June 1988, Tesoro Petroleum Corporation purchased all of the stock of BHP Petroleum Americas Refining, Inc. and thereafter changed its name to Tesoro Hawaii Corporation.

²See, Decision and Order No. 16142, filed on December 30, 1997, in Docket No. 97-0396.

Contracts remain essentially unchanged by the contract amendments, except for the extension of the term through 2014. Two (2) key terms that remain essentially unchanged are the pricing formulas; and the product specifications for the three (3) fuels: No. 6 Fuel Oil, Diesel and Jet fuel.

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-confidential³:

1. Amended the Contract and related definitions to delete references to Hawaiian Tug & Barge Corp. and Young Brothers, Limited due to the sale of these companies and their no longer being parties to the contract. (Exhibit D, page 1)
2. Amended the Term provision to reflect the extension of the term of the existing Chevron Inter-island Contract for an additional ten years. (Exhibit D, page 2)
3. Amended the CIFO and Diesel Specifications provisions to allow for an alternative laboratory test method for CIFO and Diesel. (Exhibit D, page 3)
4. Amended the Delivery of Diesel and CIFO to MECO and HELCO provision to reflect that Chevron no longer loads barges at its Honolulu Marine Terminal. (Exhibit D, page 4)
5. Amended the Invoices, Payment Terms and Method of Payment provisions to clarify actual practices and allow for electronic transmission of invoices and clarify the invoice dispute process. (Exhibit D, pages 5, 6 and 8)

³See, letter dated December 22, 2004 from HECO, HELCO, and MECO to the Commission regarding Docket No. 04-0129 - Inter-Island Fuel Contract Amendments.

6. Amended the Contingencies provision to accommodate recent changes in business climate. (Exhibit D, page 9)
7. Amended the Notification provision to update the notification personnel for both parties. (Exhibit D, page 10)
8. Amended the Illustrative Schedule of Prices, Addendum No. 1, with current period pricing components. (Exhibit D, page 10)

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-confidential⁴:

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 11)
2. Amended the Term provision to reflect the extension of the term of the existing Tesoro Inter-island Contract for an additional ten years. (Exhibit D, page 11)
3. Amended the Notices provision to update the notification personnel for both parties. (Exhibit D, page 14)
4. Amended the Required Insurance provision to reflect Tesoro's current insurance requirement standards. (Exhibit D, page 15)
5. Amended the No. 6 Industrial Fuel oil and Diesel Specifications, Exhibits A and B, to conform to the product specifications in the existing Chevron Inter-island Contract. (Exhibit D, page 18)

⁴See, letter dated December 22, 2004 from from HECO, HELCO, and MECO to the Commission regarding Docket No. 04-0129 - Inter-Island Fuel Contract Amendments.

6. Amended the No. 6 Fuel Oil and Diesel Example Price Calculation, Exhibits C and D, with current period pricing components. (Exhibit D, page 18)

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 that contract amendments for the purchase of No. 6 Fuel Oil, Diesel and Jet fuel from Chevron 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, HELCO's, and MECO's ECACs and their continued use to recover fuel contract costs through their respective ECACs. Therefore, consistent with Decision and Order No. 16142, the commission intends to examine the continued use of the ECAC to recover the various costs incurred pursuant to the amended fuel contracts in Docket No. 04-0113, HECO's pending rate case and in HELCO's and MECO's next respective rate cases. In the interim, however, the commission will allow the Companies' to include in their respective ECACs the stated costs incurred pursuant to their respective amended fuel contracts, to the extent that these costs are not included in their respective base rates.

IV.

Order

THE COMMISSION ORDERS:

1. The amendments to the contract between the Companies and Chevron for the purchase of No. 6 Industrial Fuel Oil (NO. 6 Fuel Oil), No. 2 Diesel Fuel ("Diesel") and Jet fuel are approved.

2. The amendments to the contract between the Companies and Tesoro for the purchase of No. 6 Industrial Fuel Oil (NO. 6 Fuel Oil), No. 2 Diesel Fuel ("Diesel") and Jet fuel are approved.

3. Applicants may, on an interim basis, continue to recover the stated fuel contract costs through their respective ECACs to the extent that the costs are not recovered in their base rates, pursuant to HAR § 6-60-6. The continued use of the ECAC to recover the various costs incurred pursuant to the amended fuel contracts, discussed herein, will be examined in Docket No. 04-0113, HECO's pending rate case, and in HELCO's and MECO's next respective rate cases.

DONE at Honolulu, Hawaii December 30, 2004.

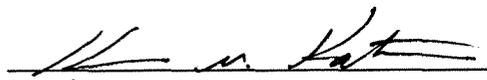
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel

04-0129.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21523 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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for Karen Higashi

DATED: December 30, 2004