

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Approval and/or Modification of)
Demand-Side and Load Management)
Programs and Recovery of Program)
Costs and DSM Utility Incentives.)

DOCKET NO. 05-0069

ORDER NO. 21861

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2005 JUN -8 A 8:44
DIV. OF CONSTRUCTION AND
DEPT. OF LAND AND NATURAL
CONSERVATION AFFAIRS
STATE OF HAWAII

Filed June 7, 2005
At 2:30 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)	
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HAWAIIAN ELECTRIC COMPANY, INC.)	Docket No. 05-0069
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Demand-Side and Load Management)	
Programs and Recovery of Program)	
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ORDER

By this Order, the commission: (1) grants the request of HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") for an extension of time from May 16, 2005 to June 16, 2005 for the Parties and Participants of this proceeding to meet informally to determine the issues, procedures, and schedule with respect to the instant docket, and to file a stipulated procedural order; and (2) makes, in addition HECO, the remaining energy utilities operating in the State of Hawaii ("State") - HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), and THE GAS COMPANY ("TGC") - Parties to this docket.

I.

Introduction

By Order No. 21698, filed on March 16, 2005, in Docket Nos. 04-0113 and 05-0069, the commission: (1) separated HECO's requests for approval and/or modification of demand-side and load

management programs and recovery of program costs and demand-side management ("DSM") utility incentives (collectively referred to as the "Proposed DSM Programs") from Docket No. 04-0113 (the "Rate Case Docket"), and opened the instant docket (the "Energy Efficiency Docket") in which to consider these matters, among other things, and (2) determined the parties and participants for the Rate Case Docket and the newly formed Energy Efficiency Docket to address and examine the Proposed DSM Programs.¹

By Order No. 21749, issued on April 14, 2005, the commission granted the DEPARTMENT OF THE NAVY, ON BEHALF OF THE DEPARTMENT OF DEFENSE ("DoD"), HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"), and HAWAII RENEWABLE ENERGY ALLIANCE ("HREA") intervention in this docket, and required the persons granted intervention and participation in this docket to meet informally to determine the issues, procedures, and schedule with respect to the instant docket, and to submit a stipulated procedural order setting forth such matters.²

By letter dated and filed May 13, 2005, HECO requests an extension of time from May 16, 2005 to June 16, 2005 to submit the stipulated procedural order. HECO requests the one (1)-month extension "to work with the [Parties and the Participant] to attempt to reach agreement on a stipulated prehearing order."

¹By Order No. 21698, the commission granted the requests of the ROCKY MOUNTAIN INSTITUTE ("RMI") and LIFE OF THE LAND ("LoL") to intervene and of the COUNTY OF MAUI ("CoM") to participate.

²HECO, the Consumer Advocate, RMI, LoL, DoD, HSEA, and HREA are collectively referred to as the "Parties" and CoM is referred to as the "Participant".

HECO advises that the Parties and the Participant do not object to the extension of time described above.

Hawaii Administrative Rules ("HAR") § 6-61-23(a)(1) provides the commission with the discretion, for good cause shown, to enlarge a period by which a required act must be completed, if a written request is made before the expiration of the period originally prescribed. Upon review, the commission finds good cause to extend the deadline for the filing of the stipulated procedural order. Thus, we will grant HECO's request for a one (1)-month extension of time to file the stipulated procedural order. In addition, since the commission will include additional parties to this docket, we believe that additional time may be necessary. Therefore, the commission will grant thirty (30) days from the date of this order to file the stipulated procedural order.

II.

Additional Parties

HAR Chapter 6-61 is silent in setting forth the standard for determining persons to be joined as a party in a docket. As such, consistent with HAR § 6-61-1, we refer to the Hawaii Rules of Civil Procedure ("HRCP") for guidance.

HRCRP Rule 19 requires the joinder of parties, if feasible, in certain instances.³

Pursuant to [HRCRP] Rule 19(a)(1), a party must be joined if feasible if relief cannot be afforded among those already parties. Rule 19(a)(2)(A), [HRCRP,] provides that a person must be joined if feasible if the person has an interest in the subject matter of the action and disposition of the case in his or her absence may impair his or her ability to protect that interest or, under Rule 19(a)(2)(B), [HRCRP,] leave any of the persons already parties subject to the risk of multiple or inconsistent obligations because of the interest.

International Sav. and Loan Ass'n v. Carbonel, 93 Hawai'i 464, 470, 5 P.3d 454, 460 (2000).

³HRCRP Rule 19 provides as follows:

(a) Persons to be Joined if Feasible. A person who is subject to service of process shall be joined as a party if (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may (A) as a practical matter impair or impede the person's ability to protect that interest or (B) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been so joined, the court shall order that the person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff.

(b) Determination by Court Whenever Joinder Not Feasible. If a person as described in subdivision (a)(1)-(2) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable....

The commission set forth five (5) preliminary issues to address in the instant docket: (1) Whether energy efficiency goals should be established and if so, what the goals should be for the State;

(2) Whether the seven (7) Proposed DSM Programs (i.e., the CIEE, CINC, CICR, REWH, RNC, RLI, and ESH programs), the RCEA program, and/or other energy efficient programs will achieve the established energy efficiency goals and whether the programs will be implemented in a cost-effective manner;

(3) What market structure(s) is the most appropriate for providing these or other DSM programs (e.g., utility-only, utility in competition with non-utility providers, non-utility providers);

(4) For utility-incurred costs, what cost recovery mechanism(s) is appropriate (e.g., base rates, fuel clause, IRP Clause); and

(5) For utility-incurred costs, what cost level is appropriate? Many of the preliminary issues to be considered, like, for example, the issues numbered 1, 3, 4, and 5, relate not only to HECO's Proposed DSM Programs, but to statewide energy policies as well. Accordingly, the commission finds that the remaining energy utilities operating in the State - HELCO, MECO, KIUC, and TGC - have interests relating to the subject docket, and their failure to participate in the docket may

impair their ability to protect those interests. Accordingly, we conclude that HELCO, MECO, KIUC, and TGC (collectively referred to as the "Additional Parties") should participate in this docket. However, we find that the participation of the Additional Parties should be limited solely to those issues that relate to statewide energy policy (issues numbered 1, 3, 4, 5, and any additional statewide energy issues to which the Parties, the Participant, and the Additional Parties may agree), rather than to HECO's Proposed DSM Programs, to allow HECO the best opportunity to expeditiously prosecute its application for the Proposed DSM Programs.

III.

Orders


THE COMMISSION ORDERS:

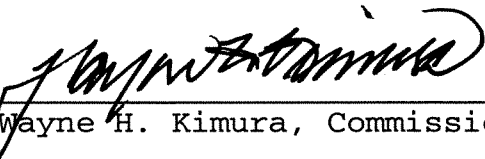
1. HECO's request for extension of time, from May 16, 2005 to June 16, 2005, to file the stipulated procedural order is granted. Since the commission will include Additional Parties in this docket, the Parties, Additional Parties, and the Participant shall have thirty (30) days from the date of this order to file the stipulated procedural order.

2. The commission, *sua sponte*, will include HELCO, MECO, KIUC, and TGC as parties in this docket, provided that their participation is limited solely to the issues dealing with statewide energy policies.

DONE at Honolulu, Hawaii JUN - 7 2005.

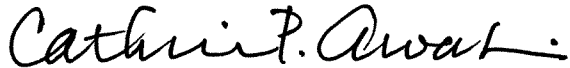
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By (EXCUSED)
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

05-0069.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21861 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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DATED: JUN - 7 2005