

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Notice of )  
 )  
HAWAIIAN ELECTRIC COMPANY, INC. )  
 )  
To Modify its Rule 18, Net Energy )  
Metering, and to Make Corresponding )  
Changes to its Rule 14H. )  
Transmittal No. 05-01. )

In the Matter of the Notice of )  
 )  
HAWAII ELECTRIC LIGHT COMPANY, INC. )  
 )  
To Modify its Rule 18, Net Energy )  
Metering, and to Make Corresponding )  
Changes to its Rule 14H. )  
Transmittal No. 05-01H. )

In the Matter of the Notice of )  
 )  
MAUI ELECTRIC COMPANY, LIMITED )  
 )  
To Modify its Rule 18, Net Energy )  
Metering, and to Make Corresponding )  
Changes to its Rule 14H. )  
Transmittal No. 05-01M. )

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

*K. Higashi*

DOCKET NO. 05-0037  
(CONSOLIDATED)

DECISION AND ORDER NO. 21877

DIV. OF REGULATED UTILITIES  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

2005 JUN 20 A 7:51

RECEIVED

Filed June 17, 2005  
At 2 o'clock P.M.

*Karen Higashi*  
Chief Clerk of the Commission

TABLE OF CONTENTS

I.	PROCEDURAL BACKGROUND	2
II.	HRS CHAPTER 269, PART VI, AND HRS § 36-41	4
	A. Act 99, Session Laws of Hawaii 2004	4
	B. Act 98, Session Laws of Hawaii 2004	6
III.	PARTIES' JOINT FILING: RULES 18 AND 14H	7
	A. Rule 18	7
	B. Rule 18: Standard Agreement Forms	9
	1. Appendices I and II - Similar Provisions	9
	2. Appendix II - Additional Provisions	12
	C. Rule 14H	13
IV.	COMMISSION'S FINDINGS	14
	A. Rule 18	14
	B. Rule 14H	15
V.	PARTIES' JOINT FILING: ADDITIONAL PROCEDURES	16
VI.	RECENT LEGISLATIVE AMENDMENTS	19
VII.	COMMISSION'S OBSERVATIONS	20
VIII.	ORDERS	21

)

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Notice of )
)
HAWAIIAN ELECTRIC COMPANY, INC. )
)
To Modify its Rule 18, Net Energy )
Metering, and to Make Corresponding )
Changes to its Rule 14H. )
Transmittal No. 05-01. )
\_\_\_\_\_ )

In the Matter of the Notice of )
)
HAWAII ELECTRIC LIGHT COMPANY, INC. )
)
To Modify its Rule 18, Net Energy )
Metering, and to Make Corresponding )
Changes to its Rule 14H. )
Transmittal No. 05-01H. )
\_\_\_\_\_ )

In the Matter of the Notice of )
)
MAUI ELECTRIC COMPANY, LIMITED )
)
To Modify its Rule 18, Net Energy )
Metering, and to Make Corresponding )
Changes to its Rule 14H. )
Transmittal No. 05-01M. )
\_\_\_\_\_ )

Docket No. 05-0037
Decision and Order No. 21877
(Consolidated)

DECISION AND ORDER

The commission allows the three (3) transmittals filed by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO") (individually, "Utility," collectively, the "Utilities"), which proposes certain changes to their respective net energy metering and interconnection tariff rules, to take effect from the date of this Decision and Order, as revised by the Utilities

and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate") (collectively, the "Parties").

I.

Procedural Background

On January 18, 2005, the Utilities filed three (3) transmittals with the commission: HECO's Transmittal No. 05-01, HELCO's Transmittal No. 05-01H, and MECO's Transmittal No. 05-01M.<sup>1</sup> The Utilities served copies of their respective transmittals upon the Consumer Advocate. No persons protested or objected to the Utilities' transmittals.

On February 3, 2005, the Consumer Advocate filed its preliminary position statements, recommending that the commission suspend all three (3) transmittals for a specified period, pending the completion of the Consumer Advocate's review.<sup>2</sup> The commission suspended all three (3) transmittals for a period up to and including April 19, 2005, for further review by the commission and Consumer Advocate.<sup>3</sup>

The Utilities subsequently responded to the: (1) Consumer Advocate's information requests on March 9, 2005; and (2) commission's information request on March 23, 2005. On

---

<sup>1</sup>The Utilities filed their transmittals in accordance with Hawaii Revised Statutes ("HRS") §§ 269-12(b) and 269-16(b) and Hawaii Administrative Rules ("HAR") § 6-61-111.

<sup>2</sup>Consumer Advocate's preliminary position statements, for Transmittals Nos. 05-01, 05-01H, and 05-01M, respectively.

<sup>3</sup>Order No. 21642, filed on February 8, 2005.

March 17, 2005, the commission approved the Consumer Advocate's request for an extension of time, from March 18, 2005 to April 11, 2005, to file the Parties' respective position statements.<sup>4</sup> Thereafter, on March 30, 2005, the Parties held a technical meeting to discuss the outstanding issues.<sup>5</sup>

On April 11, 2005, the Parties filed their joint filing in lieu of position statements. In response thereto, the commission, on April 15, 2005, suspended the Utilities' three (3) transmittals for an additional period up to and including May 10, 2005, in order to provide the commission with additional time to review the Parties' joint filing.<sup>6</sup>

On April 22, 2005, the Utilities responded to the commission's information requests, and on April 29, 2005, the commission: (1) suspended the Utilities' (3) transmittals until further notice; and (2) instructed the Utilities to file a follow-up response to PUC-IR-203, "informing the commission of the Consumer Advocate's position on the Utilities' [unilateral] revisions to Appendix III of the Parties' joint filing."<sup>7</sup> On May 5, 2005, the Utilities filed its follow-up response, stating

---

<sup>4</sup>Commission's letter, dated March 17, 2005.

<sup>5</sup>In addition, on April 4, 2005, the Utilities responded to the Consumer Advocate's informal information requests that were discussed during the technical meeting. See HECO's responses, filed on April 4, 2005, to the Consumer Advocate's informal information requests.

<sup>6</sup>Order No. 21752, filed on April 15, 2005.

<sup>7</sup>Order No. 21787, filed on April 29, 2005. Specifically, the Utilities amended: (1) the Appendix III, Section 2, flowchart; (2) Appendix III, Section 2(b); and (3) Appendix III, Section 3(a).

that the Consumer Advocate does not object to the Utilities' revisions to Appendix III of the Parties' joint filing.

The Parties' joint filing includes an array of agreed-upon revisions, modifications, and additions to the transmittals initially filed by the Utilities on January 18, 2005.<sup>8</sup> The Parties stipulate that the three (3) proposed transmittals, as revised and incorporated in their joint filing, are reasonable.

This Decision and Order examines whether the Parties' joint filing, as a whole, is just and reasonable, pursuant to HRS § 269-16(a) and (b).

## II.

### HRS Chapter 269, Part VI, and HRS § 36-41

#### A.

##### Act 99, Session Laws of Hawaii 2004

HRS chapter 269, part VI, sets forth the Net Energy Metering Law, codified at HRS §§ 269-101 to 269-111.

Net energy metering "measure[s] the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a monthly billing period[,]" subject to certain conditions. HRS § 269-101. An "eligible customer-generator," in turn, is also defined in HRS § 269-101.

---

<sup>8</sup>Hereinafter, the "Parties' joint filing" includes the Utilities' unilateral revisions filed on April 11, 2005, and subsequently agreed upon by the Consumer Advocate.

HRS § 269-102 requires that each public utility develop a standard contract or tariff that provides for net energy metering:

**§269-102 Standard contract or tariff; rate structure.** (a) Every electric utility shall develop a standard contract or tariff providing for net energy metering, and shall make this contract available to eligible customer-generators, upon request, on a first-come-first-served basis until the time that the total rated generating capacity produced by eligible customer-generators equals .5 per cent of the electric utility's system peak demand.

(b) Each net energy metering contract or tariff shall be identical, with respect to rate structure, to the contract or tariff to which the same customer would be assigned if the customer was not an eligible customer-generator. The charges for which all retail rate components for eligible customer-generators shall be based exclusively on the eligible customer-generator's net kilowatt-hour consumption over a monthly billing period. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible customer-generator's costs beyond those of other customers in the rate class to which the eligible customer-generator would otherwise be assigned are contrary to the intent of this section, and shall not form a part of net energy metering contracts or tariffs.

Act 99, Session Laws of Hawaii 2004 ("Act 99"), took effect on June 2, 2004. This Act amends HRS § 269-101 by revising the definition of eligible customer-generator to: (1) include government entities; and (2) increase the capacity level of a qualifying eligible customer-generator's facility,

from ten (10) to fifty (50) kilowatts ("kW").<sup>9</sup> Thus, eligible customer-generator is now defined as:

. . . a metered residential or commercial customer, including a government entity, of an electric utility who owns and operates a solar, wind turbine, biomass, or hydroelectric energy generating facility, or a hybrid system consisting of two or more of these facilities, with a capacity of not more than [ten] fifty kilowatts, that is:

- (1) Located on the customer's premises;
- (2) Operated in parallel with the utility's transmission and distribution facilities;
- (3) In conformance with the utility's interconnection requirements; and
- (4) Intended primarily to offset part or all of the customer's own electrical requirements.<sup>10</sup>

B.

Act 98, Session Laws of Hawaii 2004

HRS § 36-41 governs energy retrofit and performance contracts for public facilities. HRS chapter 36, in turn,

---

<sup>9</sup>Act 99 also amends HRS § 269-111, governing safety and performance standards, as follows:

**§269-111 Safety and performance standards.** . . . [An] For systems of ten kilowatts or less, an eligible customer-generator whose solar, wind turbine, biomass, or hydroelectric energy generating system, or whose hybrid system consisting of two or more of these facilities, meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

Act 99's revisions to HRS § 269-111 are noted in brackets (deletions) and underscore (additions). In essence, Act 99 now limits the scope of the exemption to eligible customer-generator systems with design capacities of ten (10) kw or less.

<sup>10</sup>Act 99's revisions to HRS § 269-101 are noted in brackets (deletions) and underscore (additions).

) )  
governs the management, investment, and transfer of State of Hawaii ("State") funds.

Act 98, Session Laws of Hawaii 2004, took effect on July 1, 2004. This Act amends HRS § 36-41 by: (1) including lease-purchase, financing agreements, and third-party joint ventures as additional financing options for energy performance contracts for public facilities; and (2) adding new terms to the existing guaranteed-savings plan option, fka the shared savings plan.

### III.

#### Parties' Joint Filing: Rules 18 and 14H

The Utilities seek commission approval to: (1) modify their respective Rule 18, Net Energy Metering ("Rule 18"); and (2) make corresponding changes to their respective Rule 14H, Interconnection of Distributed Generating Facilities Operating in Parallel with the Company's Electrical System ("Rule 14H"). The Utilities state that their proposed amendments to: (1) Rules 18 and 14H are in conformance with Act 99; and (2) Rule 18 are in accord with Act 98.

#### A.

#### Rule 18

The Utilities' existing Rule 18, which initially took effect on July 26, 2001, consists of a single page that: (1) paraphrases certain provisions of the Net Energy Metering Law; and (2) states that the eligible-customer generator's

"[c]onformance with the [Utility's] interconnection requirements shall be demonstrated through the execution of a Net Energy Metering Agreement with the [Utility]."<sup>11</sup>

The Utilities propose to modify Rule 18, as follows:

1. Expand the Rule's scope to include qualifying facilities with a capacity of not more than fifty (50) kW;
  2. Clarify that the qualifying facility must meet the Utility's interconnection requirements as set forth in Rule 14H;
  3. Incorporate a Net Energy Metering Agreement form for qualifying facilities with a capacity of ten (10) kw or less;
  4. Incorporate a Net Energy Metering and Interconnection Agreement form for qualifying facilities with a capacity of greater than ten (10) kW and less than or equal to fifty (50) kW;
  5. Incorporate a Net Energy Metering Overview Process;
  6. Clarify the requirements for customer equipment;
- and
7. Allow customers that contract with a third-party to operate an eligible energy facility, to become eligible to participate in net energy metering.<sup>12</sup>

---

<sup>11</sup>HECO's Rule 18(C); HELCO's Rule 18(C); and MECO's Rule 18(C). See also Utilities' response to PUC-IR-101 (Utilities' current Agreement form).

<sup>12</sup>The Utilities state that their proposal to expand the eligibility requirements to include an eligible energy generating facility is consistent with Act 98, since this Act amended HRS § 36-41 to include options such as leasing, lease-purchase, financing agreements, and third-party joint ventures. The Utilities note their understanding that Act 98 intended leased installations to qualify for net energy metering.

B.

Rule 18: Standard Agreement Forms

For Rule 18, the Utilities propose to add new provisions primarily related to incorporating: (1) a standard Net Energy Metering Agreement form (Appendix I, 10 kW or less); (2) a standard Net Energy Metering and Interconnection Agreement form (Appendix II, greater than 10 kW, but no more than 50 kW); and (3) a step-by-step net energy metering interconnection overview process (Appendix III).

The Utilities state that qualifying facilities of 10 kW or less will generally present minimal system impact, while qualifying facilities greater than 10 kW up to 50 kW have a greater potential for adverse system impacts and must therefore meet Rule 14H's interconnection standards. Thus, a separate agreement form for qualifying facilities of 10 kW or less: (1) is consistent with HRS § 269-111; and (2) "allows for continuing the expedited application and review for the smaller facilities without complicating the application for such smaller facilities with the additional provisions applicable only to those facilities between 10 kW and 50 kW in size."<sup>13</sup>

1.

Appendices I and II - Similar Provisions

Appendices I and II contain similar provisions governing:

1. Certification by Licensed Electrical Contractor (Appendix I, Section 3; Appendix II, Section 17);

---

<sup>13</sup>Utilities' response to CA-IR-1(c).

2. Installation (Appendix I, Section 4; Appendix II, Section 3);
3. Notice of Material Changes, including a change in ownership (Appendix I, Section 5; Appendix II, Section 12);
4. Permits and Licenses (Appendix I, Section 6; Appendix II, Section 1);
5. Metering (Appendix I, Section 7; Appendix II, Section 4);
6. Cross-Indemnification (Appendix I, Section 8; Appendix II, Section 5);
7. Continuity of Service (Appendix I, Section 9; Appendix II, Section 7);
8. Personnel and System Safety (Appendix I, Section 10; Appendix II, Section 8);
9. Additional Information (Appendix I, Section 11; Appendix II, Section 11);
10. Term of the Agreement (Appendix I, Section 12; Appendix II, Section 13); and
11. Net Energy Metering and Billing (Appendix I, Section 13; Appendix II, Section 18).

In general, the similar provisions provide that:

1. The qualifying facility shall: (A) include appropriate control and protection equipment, including a disconnect device (Installation), and all necessary meters and associated equipment used for billing, with meters supplied, owned, and maintained by the Utilities (Metering); and (B) comply with all designated safety and performance standards (Certification by Licensed Electrical Contractor), including the Utilities' Rule 14H.

2. The customer shall: (A) obtain, at its expense, all government authorizations and permits necessary for the construction and operation of the qualifying facility (Permits

and Licenses);<sup>14</sup> and (B) provide the Utility with thirty (30)-day advance written notice of any proposed material changes to the qualifying facility, such as a change in ownership, and if a change in ownership occurs, the Utility may require the new owner to complete a new Net Energy Agreement form (Notice of Material Changes).<sup>15</sup>

3. The Utilities with the right to: (A) temporarily curtail, interrupt, or reduce the delivery of energy from a qualifying facility for maintenance, inspection, or system emergency purposes (Continuity of Service); (B) disconnect the qualifying facility from the Utility's system, in the event the facility's continual operation may endanger person or property, including the Utility's system (Personnel and System Safety); and (C) seek additional information from the customer (Additional Information).

4. The customer and Utility shall indemnify and hold each other harmless (Indemnification).<sup>16</sup>

5. The term of the Agreement is month-to-month (Term). The customer, at its option, may terminate the Agreement

---

<sup>14</sup>Appendix II, Section 1, expands the Permits and Licenses provision by stating that the customer: (1) is responsible for the design, installation, operation, and maintenance of the qualifying facility; and (2) shall not commence the parallel operation of its qualifying facility until the Utility has given its written approval.

<sup>15</sup>Appendix II, Section 12, expands the Notice of Material Changes provision by stating that for a qualifying facility with a capacity equal to or greater than 30 kW, no material changes or additions shall occur (except for a change in ownership) in the absence of the Utility's prior written consent.

<sup>16</sup>Appendix II, Section 5, also includes a duty to defend.

at any time. Conversely, the Utility may terminate the Agreement at any time if the customer: (A) fails to comply with the terms of the Agreement; or (B) no longer meets the definition of an eligible customer-generator.<sup>17</sup>

6. For Net Energy Metering and Billing, it incorporates the statutory language of HRS §§ 269-107 and 269-108. See also HRS §§ 269-105, 269-106, and 269-109.

2.

Appendix II - Additional Provisions

In addition to the similar provisions described in Section III(B)(1), above, Appendix II includes:

1. Exhibit A, Description of Generating Facility, a pre-printed form completed by the customer to describe the qualifying facility.

2. Exhibit B, Generating Facility Owned by the Customer-Generator or Third-Party Owner, consisting of additional provisions applicable to the qualifying facility, including: (A) the interconnection, verification testing, and inspection of and operating procedures for the qualifying facility; and (B) changes or additions to the qualifying facility or its operating records or procedures.

3. Exhibit C, Interconnection Facilities Owned by the Company, which describes the provisions that apply when the Utility owns and operates the interconnection facilities.

---

<sup>17</sup>In addition, Appendix II, Section 13, provides that the Agreement shall terminate, without notice, upon the termination of electrical service provided by the Utility to the customer.

4. An Interconnection of Facilities provision (Section 2), which references Exhibits B and C.

5. An Insurance provision (Section 6), which requires the customer to maintain a commercial general liability policy within specified monetary limits,<sup>18</sup> and names the Utility as an additional insured.

6. A Prevention of Interference provision (Section 9), which prohibits the customer from interfering with the Utility's operations.

7. Other provisions relating to Limitation of Liability (Section 10), Governing Law (Section 14), Amendment, Modifications, or Waiver (Section 15), and Limitations (Section 16).

C.

Rule 14H

The Utilities propose to make minor, non-substantive changes to Rule 14H(2). In addition, they seek to modify Rule 14H(2)(e) by cross-referencing to its new Rule 18, such that Rule 14H(2)(e) will now read:

Customers with distributed generating facilities that are eligible for net energy metering pursuant to Chapter 269 of the Hawaii Revised Statutes, shall follow the rules and requirements set forth in Rule No. 18 for Net Energy Metering.

---

<sup>18</sup>Specifically: (1) \$500,000 for a qualifying facility greater than 10 kW and less than or equal to 30 kW; and (2) \$1 million for a qualifying facility greater than 30 kW and less than or equal to 50 kW.

#### IV.

##### Commission's Findings

The commission proceeds with a discussion of the proposed changes to Rule 18, followed by the proposed revisions to Rule 14H.

#### A.

##### Rule 18

The Utilities seek to amend the definition of an eligible customer-generator by expanding the scope of Rule 18 to include: (1) qualifying facilities with a capacity of not more than fifty (50) kW; and (2) customers that contract with a third-party to operate a qualifying facility. In addition, they seek to clarify that the applicable interconnection requirements are the requirements set forth in Rule 14H.<sup>19</sup>

The Utilities also propose to add new provisions to Rule 18, primarily related to incorporating: (1) a standard Net Energy Metering Agreement form (Appendix I, 10 kW or less); (2) a standard Net Energy Metering and Interconnection Agreement form (Appendix II, greater than 10 kW, but not more than 50 kW); and (3) a Net Energy Metering Overview Process (Appendix III).

Rule 18 and its appendices: (1) provide the details upon which to implement the Net Energy Metering Law, as recently amended in June 2004; and (2) appear consistent with the overall provisions of HRS chapter 269, part VI, and HRS § 36-41. In

---

<sup>19</sup>The existing Rule 18 states that a qualifying facility is one that is in conformance with the Utility's interconnection requirements. The new Rule 18 specifies that the Utility's interconnection requirements are those provided in Rule 14H.

addition, Appendix III, developed and included as part of Rule 18 at the Consumer Advocate's request, and revised by the Utilities in response to PUC-IR-203: (1) describes the step-by-step net energy metering interconnection process for the customer's information and convenience, including the expedited technical review process for qualified facilities greater than 10 kW and less than or equal to 50 kW, including photovoltaic systems; and (2) states that, as part of the dispute resolution process, the customer-generator is free to seek the commission's assistance (Appendix III, Section 4(c), Resolution of Disputes).

The commission: (1) finds just and reasonable the Parties' proposed Rule 18, including Appendices I, II, and III; and (2) will allow these tariff changes to take effect.

B.

Rule 14H

The Utilities' existing Rule 14H arises out of the commission's extensive review and analysis of the Utilities' then proposed interconnection standards and agreements for distributed generating facilities, in Docket No. 02-0051, *In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd.*<sup>20</sup> In approving the Utilities' Rule 14H, the commission noted:

The commission recognizes that distributed generation/interconnection is an evolving, "work in progress" in this State. The parties' joint submission represents a step forward, with the

---

<sup>20</sup>Decision and Order No. 20056, filed on March 6, 2003; and Decision and Order No. 19773, filed on November 15, 2002. See also Order No. 20220, filed on May 30, 2003.

goal of improving and streamlining the interconnection process.<sup>21</sup>

The Utilities' status reports filed in Docket No. 02-0051 reveal that numerous distributed generators have executed interconnection agreements with HECO, HELCO, and MECO.<sup>22</sup>

The Parties propose certain non-substantive, stylistic revisions to Rule 14H(2). In addition, they seek to cross-reference Rule 14H(2)(e) to its new Rule 18.

The commission will allow the Parties' proposed revisions to Rule 14H to take effect, as proposed, effective from the date of this Decision and Order.

## V.

### Parties' Joint Filing: Additional Procedures

The Parties, as part of their joint filing, also agree to include certain procedures upon the commission's approval of the Parties' stipulated revisions to Rules 18 and 14H:

1. The Utilities will file an annual report with the commission and Consumer Advocate, on qualifying facilities

<sup>21</sup>Decision and Order No. 19773, at 12. See also Decision and Order No. 20056, at 7.

<sup>22</sup>Rule 14H authorizes customers to seek the commission's assistance or guidance in finalizing an interconnection agreement with HECO, HELCO, or MECO. This provision was included in Rule 14H at the commission's insistence. See Decision and Order No. 20056, at 4; and Decision and Order No. 19773, at 9. "In response to the commission's observations of the dispute resolution procedures, [Rule 14H] now makes clear that the customer, at any time during the interconnection process, has the option of seeking relief with the commission via the complaint process." Decision and Order No. 20056, at 4. To date, no distributed generator customer has requested the commission's intervention or input in finalizing an interconnection agreement with the Utilities.

greater than 10 kW but less than 50 kW, which contain the same type of information the Utilities currently provide in their quarterly and annual status reports in Docket No. 02-0051.<sup>23</sup>

2. The annual report will cover the calendar year period up to and including December 31, and will be filed by the respective Utilities by January 31 of the following year. In addition, the annual report "will redact certain customer information and identify, without redaction, certain information relating to the energy metering generating facility, as done in the distributed generation annual reports" filed in Docket No. 02-0051.<sup>24</sup>

3. The Utilities will continue to provide interested customers with a *Net Energy Metering in Hawaii* informational packet, prepared and compiled by the Utilities.<sup>25</sup>

4. The informational packet will also include a customer questionnaire, for the purpose of "gather[ing] information concerning whether the net energy metering agreements are easy to understand and complete, and, in situations where the customer does not sign up for net energy metering[,] the reasons why."<sup>26</sup> The Parties agree to work together on creating the customer questionnaire within the next three (3) months, and upon

---

<sup>23</sup>See Section VII, Ordering Paragraph 3, of this Decision and Order.

<sup>24</sup>Parties' joint filing, at 5 - 6.

<sup>25</sup>See the Utilities' response to the Consumer Advocate's informal CA-IR-4, Attachment 2. The informational packet presently includes the form Agreement that will be superseded by the Parties' commission-approved Appendices I and II.

<sup>26</sup>Parties' joint filing, at 6.

completion, will file a copy of the questionnaire with the commission for informational purposes.

5. "With regard to existing net energy metering customers that have already entered into a net energy metering contract, the HECO Utilities will grandfather those customers already operating in parallel with the [U]tility's system from completing a new net energy metering agreement for generating facilities less than 10 kW," upon the commission's approval of the Parties' stipulated revisions to Rules 18 and 14H.<sup>27</sup>

The commission will adopt as reasonable the Parties' agreed-upon additional procedures, provided that:

1. For paragraph V(1), above, the scope of the qualifying facilities is extended to include facilities with a capacity of 50 kW, consistent with Appendix II and the recent amendments to HRS § 269-101.

2. For paragraph V(2), above, the Parties shall promptly submit a signed Stipulated Protective Order for the commission's review and approval, which covers the redacted information the Utilities will file under confidential seal as part of their annual reports.

3. For paragraph V(3), above, following the issuance of this Decision and Order, the Utilities shall remove from their informational packet the former form Agreement and replace said form with the Parties' Appendices I, II, and III.

4. For paragraph V(5), above, the scope of the grandfathered qualifying facilities is extended to include

---

<sup>27</sup>Id.

facilities with a capacity of 10 kW, consistent with Appendix I and the recent amendments to HRS § 269-111 (exemption applies to facilities with a capacity of 10 kW or less).

## VI.

### Recent Legislative Amendments

Two (2) significant developments have occurred with respect to the Net Energy Metering Law following the Utilities' last filing on May 5, 2005:

1. On May 23, 2005, Act 69, 2005 Session Laws of Hawaii, was enacted into law. Act 69 makes certain amendments to HRS § 269-111, in particular, by adding a subsection (c) that reads as follows:

(c) For eligible customer-generator systems of greater than ten kilowatts, the commission, either through decision and order, by tariff adoption, or by rule, shall:

- (1) Set forth safety, performance, and reliability standards and requirements; and
- (2) Establish the qualifications for exemption from a requirement to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

2. On June 6, 2005, Act 104, 2005 Session Laws of Hawaii, was enacted into law. Act 104 makes an array of changes to the Net Energy Metering Law. Specifically, Act 104:

A. Authorizes the commission to increase the maximum capacity of qualifying facilities to more than fifty (50) kW, as well as the total rated generating capacity produced by qualifying facilities to an amount above 0.5 per cent of the utility's system peak demand.

B. Requires an electric utility to provide eligible customer-generators with a twelve (12)-month reconciliation of their consumption and production of energy.

C. Clarifies the policy for actions taken on credits for excess electricity generated by an eligible customer-generator that remain unused after the twelve (12)-month reconciliation period, by specifying that any remaining unused credits after each twelve (12)-month reconciliation period may not be carried over to the next twelve (12)-month period.

The commission, at this juncture, addresses Act 69 by: (1) approving the Parties' stipulated revisions to Rules 18 and 14H herein; and (2) reserving the right to adjust or modify the Utilities' Rule 18, consistent with the public interest and State law. With respect to Act 104, the commission will instruct the Utilities to promptly consult with the Consumer Advocate and file the Parties' proposed tariff changes, incorporating the recent changes promulgated by Act 104.

## VII.

### Commission's Observations

The Parties "recognize that[,] like the interconnection with distribution generation facilities, the process for net energy metering is evolving."<sup>28</sup> In this respect, the Parties'

---

<sup>28</sup>Id. at 5.

joint filing represents a meaningful step to further implement the Net Energy Metering Law, including its 2004 amendments.<sup>29</sup>

The commission intends to closely monitor the Utilities' and customers' efforts in achieving the underlying objective of facilitating the development of net energy metering in the State. Any adjustments or modifications to the Utilities' Rule 18 can be made, if necessary. Of particular note, Rule 18 is subject to review, adjustment, or modification based on: (1) the commission's rulings in its investigation of distributed generation in the State, Docket No. 03-0371; and (2) Act 104. Within sixty (60) days from the date of this Decision and Order, the Utilities shall promptly consult with the Consumer Advocate and file the Parties' proposed tariff changes to Rule 18 with the commission.

#### VIII.

##### Orders

###### THE COMMISSION ORDERS:

1. The Parties' stipulated revisions to Rules 18 and 14H are approved, and will be allowed to take effect from the date of this Decision and Order. Within seven (7) days from the date of this Decision and Order, HECO, HELCO, and MECO shall promptly file their revised tariff sheets, incorporating the Parties' agreed-upon revisions and appropriate issued and effective dates, with copies served upon the Consumer Advocate.

---

<sup>29</sup>While Act 99 took effect on June 2, 2004, the Utilities did not file their proposed tariff changes until January 18, 2005. The Utilities shall file any future proposed changes to Rule 18 in a more expeditious manner.

2. The Parties' agreed-upon additional procedures, as described in their joint filing, are approved, subject to the conditions noted in Section V of this Decision and Order.

3. The Utilities shall file an annual report with the commission and Consumer Advocate, on qualifying facilities greater than 10 kW and less than or equal to 50 kW, which include the following information:

A. The status of establishing an agreement with each existing customer, until such time that all such agreements have been finalized and executed;

B. A description of all disputes: (i) with a running summary of the factors that have been a basis for the disputes; and (ii) the time needed, from start to finish, to resolve each dispute, along with the time spent on each stage of the dispute resolution process.

C. A description of the time required for each customer to complete each of the six (6) steps set forth in the interconnection process, as set forth in Appendix III, Section 1(c).

D. For each application or request the Utility receives, the: (i) customer's name and location; (ii) start and end date of the interconnection process; (iii) size and type of the generation unit; (iv) identification of any additional technical studies required, including the factors and criteria that caused the need for the additional studies; and (v) identification of the additional protective equipment

( )

required, including the cost of the additional equipment, to the extent this information is available to the Utility.

The annual report shall cover the calendar year period up to and including December 31, and shall be filed by the respective Utilities by January 31 of the following year, with the first annual report due by January 31, 2006.

4. The Parties shall promptly submit a signed Stipulated Protective Order for the commission's review and approval, which covers the redacted information the Utilities will file under confidential seal as part of their annual reports.

5. By September 15, 2005, the Parties shall file with the commission for informational purposes a copy of the customer questionnaire form jointly developed by the Parties.

6. The Utilities shall continue to provide interested customers with a current and updated *Net Energy Metering in Hawaii* informational packet. The informational packet will include the questionnaire form for completion by the customer, once the customer questionnaire form is developed by the Parties.

7. Existing net energy metering customers with qualifying facilities of 10 kW or less, who are presently operating under a net energy metering contract, shall not be required to complete the new Appendix I.

8. The commission reserves the right to adjust or modify the Utilities' Rule 18, consistent with the public interest and State law. Of particular note, Rule 18 is subject to review, adjustment, or modification based on: (A) the

commission's ruling in its investigation of distributed generation in the State, Docket No. 03-0371; and (B) Act 104. Within sixty (60) days from the date of this Decision and Order, the Utilities shall promptly consult with the Consumer Advocate and file the Parties' proposed tariff changes to Rule 18 with the commission.

9. The Utilities shall conform to all of the commission's orders set forth, above. Their failure to adhere to the commission's orders shall constitute cause for the commission to void this Decision and Order, and may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii JUN 17 2005.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By Wayne H. Kimura  
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Michael Azama  
Michael Azama  
Commission Counsel

By Janet E. Kawelo  
Janet E. Kawelo, Commissioner

05-0037.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21877 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

DARCY L. OMOTO-ENDO  
ACTING DIRECTOR, REGULATORY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, HI 96840-0001

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

EDWARD L. REINHARDT, PRESIDENT  
MAUI ELECTRIC COMPANY, LIMITED  
P. O. Box 398  
Kahului, Maui, HI 96733-6898

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

Counsel for HECO, HELCO, and MECO

  
\_\_\_\_\_  
Karen Higashi

DATED: JUN 17 2005