

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
KAUAI ISLAND UTILITY COOPERATIVE )  
For Approval of Changes to its )  
Tariff, Net Energy Metering. )  
Transmittal No. 06-01. )

DOCKET NO. 2006-0134

ORDER NO. 22475

Filed May 18, 2006  
At 2 o'clock P.M.

*for Eleanor R. Iuiasosepu*  
Chief Clerk of the Commission

RECEIVED

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Chief Clerk, Public Utilities  
Commission, State of Hawaii.

*K. Higashi*

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Docket No. 2006-0134  
Order No. 22475

ORDER

By this Order, the commission: (1) suspends Transmittal No. 06-01, filed by KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") on April 25, 2006;<sup>1</sup> and opens an investigation to provide further opportunity to review Transmittal No. 06-01.<sup>2</sup> By its transmittal, KIUC proposes to revise its tariff Rule 17, Net Energy Metering ("Rule 17"), by incorporating certain changes to the Net Energy Metering Law (codified at HRS chapter 269, part VI) promulgated by Act 99, 2004 Session Laws of Hawaii ("Act 99"), and Act 104, 2005 Session Laws of Hawaii ("Act 104").

Any interested person seeking to intervene or participate in this proceeding shall file a timely motion with

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<sup>1</sup>KIUC's Transmittal No. 06-01; Exhibits 1 - 3; Verification; and Certificate of Service, filed on April 25, 2006 (collectively, "Transmittal No. 06-01").

<sup>2</sup>The Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), is an *ex officio* party to this proceeding. See Hawaii Administrative Rules ("HAR") § 6-61-62(a). See also Hawaii Revised Statutes ("HRS") § 269-51. KIUC and the Consumer Advocate are collectively referred to as the "Parties."

the commission, within twenty (20) days from the date of this Order, pursuant to HAR § 6-61-57(3)(B), with copies served on each of the Parties.

Within thirty (30) days from the date of this Order, the Parties shall submit to the commission a stipulated procedural schedule for the commission's review and consideration. If the Parties are unable to stipulate to such a schedule, each party shall submit a proposed procedural schedule for the commission's consideration.

I.

Background

Act 99, enacted on June 2, 2004, amended 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"). Act 99 also amended HRS § 269-111, governing safety and performance standards for eligible customer-generator facilities.

Act 104, enacted on June 6, 2005, makes certain other changes to the Net Energy Metering Law, including:

1. Authorizing the commission to increase, by rule or order:

A. The maximum capacity of eligible customer-generators to more than fifty (50) kW;<sup>3</sup> and

B. The total rated generating capacity produced by eligible customer-generators to an amount above 0.5 percent of the electric utility's system peak demand (collectively, "increasing the maximum thresholds");<sup>4</sup>

2. Requiring an electric utility to provide eligible customer-generators with a twelve (12)-month reconciliation of the customer's consumption and production of energy;<sup>5</sup> and

3. Clarifying 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.<sup>6</sup> Conference Committee Report No. 7, on Senate Bill No. 1003, SD 2, HD 2, CD 1, 2005 House Journal 1732.

By its transmittal, KIUC "seeks to revise Rule No. 17 of its Tariff to be consistent with the amendments made by both

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<sup>3</sup>See HRS §§ 269-101 (definition of "eligible customer-generator") and 269-101.5 (Maximum capacity of eligible customer-generator).

<sup>4</sup>See HRS §§ 269-102 (Standard contract or tariff; rate structure) and 269-104 (Additional customer-generators). The commission is currently reviewing the feasibility of increasing the maximum thresholds in Docket No. 2006-0084, In re Public Util. Comm'n.

<sup>5</sup>See HRS § 269-106 (Billing periods; twelve-month reconciliation).

<sup>6</sup>See HRS §§ 269-105 (Calculation), 269-106 (Billing periods; twelve-month reconciliation), 269-107 (Net electricity consumers), 269-108 (Net electricity producers; excess electricity credits and credit carry over), 269-109 (Net electricity consumption or production information), and 269-110 (Termination by eligible customer-generators).

Act 99 - 2004 and Act 104 - 2005."<sup>7</sup> KIUC states that its proposed revisions "are being requested merely to be consistent with recent amendments made by Act 99 - 2004 and Act 104 - 2005. As such, the public benefit will be served or at least not harmed by this request."<sup>8</sup> KIUC filed its transmittal in accordance with HRS §§ 269-12(b) and 269-16(b) and HAR § 6-61-111, with a proposed effective date of May 25, 2006.

No person protested KIUC's transmittal under HAR §§ 6-61-58 and 6-61-61, and no preliminary statement of position was submitted by the Consumer Advocate under HAR § 6-61-62.

## II.

### Discussion

HRS § 269-16(b) provides in respective part that "[t]he commission, upon notice to the public utility, may suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice[.]"

Upon review, the commission finds: (1) it prudent to suspend Transmittal No. 06-01, pursuant to HRS § 269-16(b);<sup>9</sup> and

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<sup>7</sup>KIUC's Transmittal No. 06-01, at 3. A black-lined version of KIUC's proposed revisions to Rule 17 is attached as part of Exhibit 3 to KIUC's transmittal.

<sup>8</sup>KIUC's Transmittal No. 06-01, at 4.

<sup>9</sup>In In re Hawaiian Elec. Co., Inc., Docket No. 05-0037 ("Docket No. 05-0037"), the commission approved detailed changes to the respective net energy metering tariff rules filed by Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited, and agreed-upon with the Consumer Advocate. See Decision and Order No. 22313, filed on March 9, 2006; and Decision and Order No. 21877, filed on June 17, 2005. The revisions authorized by the commission in

(2) sufficient cause to open an investigation of KIUC's transmittal, pursuant to HRS §§ 269-6, 269-7, and 269-8, and HAR § 6-61-71.<sup>10</sup>

Interested persons will have the opportunity to file, within twenty (20) days from the date of this Order, motions to intervene or participate in the commission's investigation, pursuant to HAR § 6-61-57(3)(B).<sup>11</sup> Lastly, within thirty (30) days from the date of this Order, the Parties shall submit to the commission a stipulated procedural schedule for the commission's review and consideration.<sup>12</sup> If the Parties are unable to stipulate to such a schedule, each party shall submit a proposed procedural schedule for the commission's consideration.

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Docket No. 05-0037 incorporate the requirements of Acts 99 and 104. By contrast, KIUC's transmittal appears at this time to lack sufficient detail.

<sup>10</sup>HRS § 269-6 sets forth the commission's broad general powers and supervision over public utilities. HRS § 269-7 authorizes the commission to: (1) examine and investigate the condition of each public utility and all matters of every nature affecting the relations and transactions between the utility and public; and (2) open an investigation upon its own motion. HRS § 269-8 mandates that every public utility or other person that is a subject of the commission's investigation must comply with the commission's request to furnish information. HAR § 6-61-71 authorizes the commission to investigate at any time matters subject to its jurisdiction.

<sup>11</sup>HAR § 6-61-57(3)(B) provides in part that a motion to intervene or participate shall be filed within "[t]wenty days after the commission orders an investigation including an investigation of a tariff change[.]"

<sup>12</sup>If the event intervenor or participant status is later granted to any interested person, the commission will amend the procedural schedule accordingly, if necessary.

III.

Orders

THE COMMISSION ORDERS:

1. KIUC's Transmittal No. 06-01, filed on April 25, 2006, is suspended, and an investigation is instituted to provide further opportunity to review KIUC's transmittal.

2. Any interested person seeking to intervene or participate in this proceeding shall file a timely motion with the commission within twenty (20) days from the date of this Order, pursuant to HAR § 6-61-57(3)(B), with copies served on each of the Parties to this proceeding. Motions to intervene or participate shall comply with the applicable requirements of HAR §§ 6-61-55 and 6-61-56 of the commission's *Rules of Practice and Procedure*.

3. Within thirty (30) days from the date of this Order, the Parties shall submit to the commission a stipulated procedural schedule for the commission's review and consideration. If the Parties are unable to stipulate to such a schedule, each party shall submit a proposed procedural schedule for the commission's consideration.

DONE at Honolulu, Hawaii MAY 18 2006.

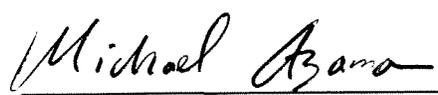
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By (EXCUSED)  
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
for Michael Azama  
Commission Counsel

KIUC.ah

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22475 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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Counsel for KIUC

per *Karen R. Higashi*  
Karen Higashi

DATED: MAY 18 2006