

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAII ELECTRIC LIGHT COMPANY, INC.)  
For Approval of Rate Increases and )  
Revised Rate Schedules and Rules. )  

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DOCKET NO. 05-0315

ORDER NO. 22663

Filed August 1, 2006  
At 11 o'clock A.M.

Karen Higashi  
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  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi



estimated total revenue requirements of \$354,019,700 for the normalized 2006 calendar test year (based on actual fuel prices effective on February 1, 2006, and an 8.65 percent rate of return on HELCO's average rate base).<sup>2</sup>

On July 6, 2006, KDC filed a Motion to Participate in the instant docket.<sup>3</sup> On July 7, 2006, RMI filed a Motion to Intervene in this docket.

On July 14, 2006, HELCO filed a memorandum in response to KDC's Motion to Participate ("Response to KDC") indicating that it "supports KDC's Motion to [P]articipate with respect to issues related to the expansion of [its] Keahole generating station (CT-4, CT-5, and ST-7)" "in accordance with the terms of a mediated settlement agreement between HELCO and a number of other entities (including KDC) that terminated litigation

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was granted by the commission. By Order No. 22212, filed on January 9, 2006, the commission granted HELCO's request to utilize the 2006 calendar test year, including the use of calendar year 2006 financial data, provided HELCO file its Application on or after March 15, 2006 (but before June 30, 2006).

<sup>2</sup>HELCO served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an *ex officio* party to this docket, pursuant to Hawaii Revised Statutes § 269-51 and HAR § 6-61-62.

<sup>3</sup>Pursuant to HAR § 6-61-57, a motion to intervene or participate must be filed not later than ten days after the last public hearing held pursuant to the published notice of the hearing. A public hearing was held in this docket on June 26, 2006, and June 27, 2006, at the Hilo High School Cafeteria in Hilo, Hawaii, and at the Kealahou Intermediate School Cafeteria in Kona, Hawaii, respectively.

concerning HELCO's efforts to expand its Keahole generating station."<sup>4</sup>

On July 18, 2006, HELCO filed a memorandum in opposition to RMI's Motion to Intervene ("Memorandum in Opposition to RMI's Motion") in which it opposed RMI's Motion to Intervene on the grounds that any general interest that RMI may have "can be adequately represented by the Consumer Advocate," RMI has not demonstrated that its intervention would contribute to a sound record, RMI's intervention could unduly delay the proceedings, and RMI has not shown that it should be allowed to intervene "given its limited interest in the primary issues in a general rate increase proceeding."<sup>5</sup> If RMI is allowed to participate without intervention, HELCO requests that RMI's participation be limited to the rate design issues that RMI specified in its Motion to Intervene.

## II.

### Discussion

HAR § 6-61-55 sets forth the requirements for intervention in commission proceedings. It states, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15

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<sup>4</sup>Response to KDC at 1.

<sup>5</sup>Memorandum in Opposition to RMI's Motion at 1.

to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.

(b) The motion shall make reference to:

- (1) The nature of the applicant's statutory or other right to participate in the hearing;
- (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
- (3) The effect of the pending order as to the applicant's interest;
- (4) The other means available whereby the applicant's interest may be protected;
- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record;
- (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(a) and (b). HAR § 6-61-55(d) further states that "[i]ntervention shall not be granted except on allegations which

are reasonably pertinent to and do not unreasonably broaden the issues already presented."<sup>6</sup>

In addition, HAR § 6-61-56 sets forth the requirements for participation without intervention in commission proceedings. Similar to the requirements for intervention in HAR § 6-61-55, HAR § 6-61-56 provides in relevant part:

(b) A person who has a limited interest in a proceeding may make an application to participate without intervention by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57.

(c) The motion shall provide:

- (1) A clear and concise statement of the direct and substantial interest of the applicant;
- (2) The applicant's position regarding the matter in controversy;
- (3) The extent to which the participation will not broaden the issues or delay the proceeding;
- (4) The extent to which the applicant's interest will not be represented by existing parties;
- (5) A statement of the expertise, knowledge or experience the applicant possesses with regard to the matter in controversy;
- (6) Whether the applicant can aid the commission by submitting an affirmative case; and
- (7) A statement of the relief desired.

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<sup>6</sup>See In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975) (intervention "is not a matter of right but a matter resting within the sound discretion of the commission").

HAR § 6-61-56(b) and (c). Moreover, regarding the extent to which a participant may be involved in a proceeding, HAR § 6-61-56(a) provides:

The commission may permit participation without intervention. A person or entity in whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

HAR § 6-61-56(a).

A.

KDC

In support of its Motion to Participate, KDC states that it is a "nonprofit corporation . . . chartered to protect the public's interest in matters relating to [HELCO's] expansion of the Keahole Generating Station."<sup>7</sup> KDC asserts that its interest in the instant docket is to ensure "that ratepayers are not required to pay costs, cost increases and expenses that were neither reasonably nor prudently incurred by HELCO in the expansion of the Keahole Generating Station."<sup>8</sup>

Upon review, the commission finds that KDC's interest in participating in this docket, i.e., to ensure that ratepayers are not obliged to pay for any costs and expenses unreasonably incurred by HELCO in its expansion of the Keahole Generating

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<sup>7</sup>KDC's Motion to Participate at 1.

<sup>8</sup>Id. at 2.

Station is reasonably related to HELCO's request for a general rate increase, and that its participation in this proceeding may assist in the development of a sound record. Accordingly, the commission will grant KDC's request for participant status in this docket, pursuant to HAR § 6-61-56, limited to those issues related to the expansion of HELCO's Keahole Generating Station. In addition, unless the commission decides otherwise at a future juncture, KDC's participation is limited to responding to any discovery requests, filing a statement of position, and responding to questions at any evidentiary hearing.

KDC is cautioned that its participation in this docket will be limited and that the commission will preclude any effort by KDC to unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider its participation in this docket if, at any time, during the course of this proceeding, the commission determines that KDC is unreasonably broadening the pertinent issues raised in this docket or is unduly delaying the proceeding.

B.

RMI

In support of its Motion to Intervene, RMI asserts that as "one of the world's foremost authorities on energy use, supply, policy and regulation," it should be granted intervention in this docket. RMI asserts that it is the "lead consultant for the State of Hawaii for 2006 Hawaii Energy Strategy" and has interests in the "regulatory compact with respect to utility

rates, pricing, and renewable power generation."<sup>9</sup> RMI further states that the Consumer Advocate will not necessarily represent its "overriding interest in reducing fossil fuel dependency,"<sup>10</sup> that it is a ratepayer, and that "[s]everal [of RMI's] employees are HELCO ratepayers" who "live, work and recreate in Hawaii and are extremely concerned and dedicated to achieving sound energy policy."<sup>11</sup>

Upon review, the commission finds that RMI's mission "to foster the efficient and restorative use of resources to create a more secure, prosperous, and life-sustaining world,"<sup>12</sup> its stated expertise in developing regulations and utility programs for efficiency, renewables, distributed generation, its membership in the HELCO Integrated Resource Planning Advisory Group, as well as its appearances as a witness at public utility hearings, are not reasonably pertinent to HELCO's request for a general rate increase to justify full intervention in this proceeding. Accordingly, the commission will deny RMI's Motion to Intervene, but will grant it limited participant status, pursuant to HAR § 6-61-56, restricted to the issues set forth in its Motion to Intervene, i.e., tiered rate pricing, time of use pricing, energy cost adjustment charge, net energy metering and the renewable energy and energy efficiency program for affordable homes. In addition, unless the commission decides otherwise at a

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<sup>9</sup>RMI's Motion to Intervene at 4.

<sup>10</sup>Id. at 6.

<sup>11</sup>Id. at 5-6.

<sup>12</sup>Id. at 4.

future date, RMI's participation is limited to responding to any discovery requests, filing a statement of position, and responding to questions at any evidentiary hearing.

RMI is cautioned that it must follow all applicable rules of the commission, and that the commission will reconsider RMI's participation in this docket if, at any time, the commission determines that it is unreasonably broadening the pertinent issues raised in this docket or is unduly delaying the proceeding.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. KDC's Motion to Participate is granted, limited to those issues pertinent to HELCO's expansion of the Keahole Generating Station. Unless the commission decides otherwise at a future juncture, KDC's participation is limited to responding to any discovery requests, filing a statement of position, and responding to questions at any evidentiary hearing.

2. RMI's Motion to Intervene is denied. RMI, however, is granted participant status in this docket, limited to issues related to tiered rate pricing, time of use pricing, energy cost adjustment charge, net energy metering and the renewable energy and energy efficiency program for affordable homes. Unless the commission decides otherwise at a future date, RMI's participation is limited to responding to any discovery

requests, filing a statement of position, and responding to questions at any evidentiary hearing.

3. HELCO, the Consumer Advocate, KDC and RMI shall submit to the commission a stipulated prehearing order, incorporating their agreed-upon issues, procedures, and schedule with respect to this proceeding, within fifteen (15) days from the date of this Order. Any stipulated procedural schedule should be based on an evidentiary hearing set for the week of October 16, 2006. Due to a heavy regulatory workload, the week of October 16, 2006, is the only week that the commission is available for an evidentiary hearing of the length required for this docket, between October and the end of the year.

4. If the parties and participants are unable to agree to a stipulated prehearing order, each party and participant shall submit a proposed stipulated prehearing order for the commission's consideration by the same date.

DONE at Honolulu, Hawaii AUG - 1 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso, Chairman

By:   
John E. Cole, Commissioner

APPROVED AS TO FORM:

  
Benedyne S. Stone  
Commission Counsel

05-0315.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22663 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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Karen Higashi

DATED: AUG - 1 2006