

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----In the Matter of----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Issues and)
Requirements Raised by, and)
Contained in, Hawaii's Solar)
Water Heating Pay As You Save)
Program, Act 240, Session Laws)
Laws of Hawaii (2006).)
_____)

DOCKET NO. 2006-0425

ORDER NO. 23073

Filed November 24, 2006
At 2 o'clock P.M.

Charles 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
KAREN HIGASHI

Chief Clerk, Public Utilities
Commission, State of Hawaii.

for Charles K. Kane

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ORDER

By this Order, the commission grants the Motion to Intervene of Hawaii Renewable Energy Alliance ("HREA") filed on November 13, 2006 ("HREA's Motion to Intervene") and Hawaii Solar Energy Association's ("HSEA") Motion to Intervene and Become a Party, filed on November 13, 2006 ("HSEA's Motion to Intervene"), subject to certain conditions, as set forth in this Order.

I.

Introduction

By Order No. 22974, filed on October 24, 2006, the commission initiated an investigation to examine the issues and requirements raised by, and contained in, Hawaii's Solar Water Heating Pay As You Save Program ("SWH Financing Program"),¹

¹The commission is aware that PAYS America, a 501(c)(3) nonprofit organization, holds the trademark for Pay As You Save® and PAYS®.

Act 240, Session Laws of Hawaii (2006) ("Act 240"), § 13. Specifically, the commission initiated an investigation to, among other things: (1) determine the time frame of the SWH Financing Program; (2) gather and analyze information to evaluate the SWH Financing Program; (3) review and, if necessary, modify the proposed tariffs submitted by each electric utility; and (4) examine the issues and requirements necessary to implement the SWH Financing Program.

The commission named HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("CONSUMER ADVOCATE") parties to this docket (collectively, "Parties"). In addition, the commission ordered that "[a]ny individual, entity, organization, or agency desiring to intervene as a party or to participate without intervention in this proceeding shall file a motion to intervene or participate without intervention not later than twenty (20) days from the date of [Order No. 22974]."² Thus, the last day to file a motion to intervene or participate without intervention was November 13, 2006.

On November 13, 2006, HREA and HSEA filed separate motions to intervene in this docket.

²Order No. 22974, filed on October 24, 2006, in Docket No. 2006-0425, at 7.

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 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."³

A.

HREA

In support of its Motion to Intervene, HREA states that it is a Hawaii-based, private, non-profit corporation, exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986 ("I.R.C."). It is comprised of developers, manufacturers, distributors, scientists, engineers, and advocates of renewable energy.

HREA lists numerous commission dockets in which it or its members have been allowed to intervene or participate. According to HREA, individual members of HREA were intervenors in Docket No. 94-0226 (Renewable Energy), and the first two rounds of HECO's Integrated Resource Plan ("IRP"), including the Externalities Working Group, Supply-Side and Demand-Side Management Advisory Committees. In addition, HREA is a current member of the Advisory Groups for both HECO and MECO's third IRPs, and HREA is or was an intervenor in Docket Nos. 99-0004

³See 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").

(MECO's second IRP), 96-0493 (Electric Competition, Including an Investigation of the Electric Utility Infrastructure of the State of Hawaii), 03-0371 (Distributed Generation), 03-0372 (Competitive Bidding for New Generation), 05-0069 (Energy Efficiency), and 2006-0084 (Net Energy Metering). HREA states that it has a "substantial and continuing interest in the subject of renewable energy in the electric utility sector."⁴

According to HREA, its member organizations and individuals are companies, consultants, or agents involved in and/or considering manufacturing, marketing, selling, installing, and maintaining solar hot water systems in residential applications, and are concerned about residential customers' access to financing and other related issues.

Upon review, the commission finds that HREA has a substantial interest that is reasonably pertinent to the matters of this docket, and that its intervention may, among other things, assist in the development of a sound evidentiary record, and will not broaden the issues or unduly delay the proceedings. Accordingly, we conclude that HREA's Motion to Intervene should be granted.

B.

HSEA

HSEA, a non-profit trade association, was incorporated in the State in 1977, and was granted an exemption from federal income tax under I.R.C. Section 501(c)(6). HSEA states that its

⁴HREA's Motion to Intervene at 3.

organizational purposes are "to promote the utilization and commercialization of renewable energy resources, including solar water heating and solar electricity (PV) in the State of Hawaii, to advance consumer education and understanding of solar energy technologies, and to develop sound trade and technical practices among its member companies."⁵

According to HSEA, it has been granted intervention in Docket Nos. 00-0209 (Demand-Side Management), 05-0069 (Energy Efficiency), and 2006-0084 (Net Energy Metering). HSEA has and continues to participate as an Advisory Group member in HECO's and MECO's IRP and Demand-Side Management planning processes. HSEA has participated as a member in the Energy Efficiency Policy Task Force, and as a member in the Energy Policy Forum.

HSEA's members are primarily small business contractors and suppliers that have expertise in marketing, selling, engineering, installing, operating, and servicing solar water heating systems. HSEA states that solar water heating legislation and regulation "is of keen interest to HSEA members."⁶ HSEA currently has twenty-five member companies, most of whom are active participants in the solar water heating market. HSEA's member companies contribute an estimated ninety percent of the sales and installations of solar water heating systems statewide. Thus, HSEA has a strong and vested interest in the issues in this docket, and in the optimal

⁵HSEA's Motion to Intervene at 2.

⁶HSEA's Motion to Intervene at 3.

development and successful implementation of the pilot SWH Financing Program.

Based on the foregoing, as with HREA, the commission finds that HSEA has a substantial interest that is reasonably pertinent to the matters of this docket, and that its intervention may, among other things, assist in the development of a sound evidentiary record, and will not broaden the issues or unduly delay the proceedings. Accordingly, we conclude that HSEA's Motion to Intervene should be granted.

Nonetheless, both HSEA and HREA are cautioned that their participation as intervenors in this docket will be limited to the issues raised in this docket. The commission will preclude any effort by HSEA or HREA to unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider either party's intervention in this docket if, at any time, during the course of this proceeding, the commission determines that HSEA or HREA are unreasonably broadening the pertinent issues raised in this docket or are unduly delaying the proceeding.

In addition, in accordance with Order No. 22974, the Parties and intervenors (i.e., HREA and HSEA) shall develop a stipulated protective order, if necessary, and a stipulated procedural order to govern the matters of this investigation for the commission's review and approval within forty-five (45) days of the date of Order No. 22974.⁷ If the Parties and intervenors

⁷The commission will not approve a stipulated procedural order that allows the parties to modify the procedural order by agreement of the parties without commission approval.

are not able to stipulate, each of them shall file proposed orders for the commission's consideration by such date.

III.

Orders

THE COMMISSION ORDERS:

1. HREA's Motion to Intervene in this docket is granted.

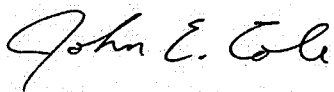
2. HSEA's Motion to Intervene in this docket is granted.

3. In accordance with Order No. 22974, the Parties and intervenors shall develop a stipulated protective order, if necessary, and a stipulated procedural order to govern the matters of this investigation for the commission's review and approval. If the Parties and intervenors are not able to stipulate, each of them shall file proposed orders for the commission's consideration by such date.

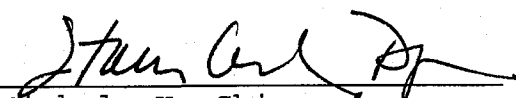
DONE at Honolulu, Hawaii NOV 24 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso

By: 
John E. Cole, Commissioner

APPROVED AS TO FORM:

for 
Nichole K. Shimamoto
Commission Counsel

2006-0425.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23073 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: NOV 24 2006