

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC.,)
HAWAII ELECTRIC LIGHT COMPANY, INC.)
and MAUI ELECTRIC COMPANY, LIMITED)
)
For Approval of Projects)
Proposed to be Financed Through)
The Sale of Special Purpose Revenue)
Bonds, Certification that the)
Projects are for the Local)
Furnishing of Electric Energy,)
Approval of Issuance of Special)
Purpose Revenue Bonds and Related)
Notes and Guarantee, and Approval)
To Enter into Related Agreements)
And To Use Expedited Approval)
Procedure.)
_____)

DOCKET NO. 05-0330

DECISION AND ORDER NO. 23292

Filed March 9, 2007
At 2 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.

Karen Higashi

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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Docket No. 05-0330

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DECISION AND ORDER

By this Decision and Order, the commission approves HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED's ("MECO") (collectively, "Applicants") request for the approvals necessary to participate, at their discretion, in one or more sales by the Department of Budget and Finance of the State of Hawaii (the "Department") of special purpose revenue bonds authorized by Act 78, Session Laws of Hawaii 2005 ("Act 78"), in amounts authorized by Act 78, i.e., up to \$100 million for HECO, up to \$40 million for HELCO, and up to \$20 million for MECO, subject to certain conditions, as set forth herein.

I.

Background

HECO is a Hawaii corporation duly organized under the laws of the Kingdom of Hawaii on or about October 13, 1891, and now existing under and by virtue of the laws of the State of Hawaii. It is an operating public utility engaged in the production, purchase, transmission, distribution and sale of electricity on the island of Oahu. HECO is a wholly owned subsidiary of Hawaiian Electric Industries, Inc.

HELCO is a wholly owned subsidiary of HECO, and is a corporation duly organized under the laws of the Republic of Hawaii on or about December 5, 1894. HELCO is an operating public utility engaged in the production, purchase, transmission, distribution and sale of electricity on the island of Hawaii.

MECO is a Hawaii corporation duly organized under the laws of the Territory of Hawaii on or about April 28, 1921. It is a wholly owned subsidiary of HECO and is engaged in the production, purchase, transmission, distribution, and sale of electricity on the islands of Maui, Molokai and Lanai.

A.

Application

On December 29, 2005, Applicants filed an application requesting the approvals necessary for the issuance, at their discretion, of unsecured, taxable obligations in principal amounts

of up to \$100 million, up to \$50 million, and up to \$15 million for HECO, HELCO and MECO, respectively ("Original Application").¹

By stipulation between Applicants and the Consumer Advocate (collectively, the "Parties"), filed on August 29, 2006, the Parties agreed that Applicants should issue revenue bonds to satisfy their long term financing needs, rather than unsecured, taxable obligations, and that Applicants would amend the Original Application to request the approvals required for the issuance of special purpose revenue bonds ("Stipulation"). Applicants state that current economic conditions, including interest rates and tax criteria, favor the issuance of revenue bonds over unsecured taxable obligations.

On October 27, 2006, Applicants filed an amended application requesting the commission approvals necessary for their participation, at the discretion of each of the Applicants,

¹Applicants served copies of the Original Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to all matters before the commission pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. No persons moved to intervene or participate without intervention in this docket.

On January 19, 2006, the Consumer Advocate filed a preliminary statement of position informing the commission, among other things, that it was unable to presently state its position on the merits of the Original Application and that information requests ("IRs") would be forthcoming. On January 25, 2006, the Consumer Advocate submitted IRs on the Original Application, to which Applicants filed responses on February 8, 2006. On February 22, 2006, the Consumer Advocate submitted supplemental IRs, to which Applicants filed responses on March 7, 2006.

in one or more sales by the Department of special purpose revenue bonds for the benefit of the Applicants ("Amended Application").²

According to Applicants, their request for approval is predicated on their need to finance capital expenditures, including repaying portions of their short term borrowings. During the years 2005-2010, HECO, HELCO and MECO estimate that they will have total fund requirements of approximately \$627 million, \$279 million, and \$230 million, respectively, in estimated capital expenditures. Applicants assert that "[i]nternal sources will not be adequate to meet this need for funds during the same period" and that the sale of revenue bonds would help provide funds for capital expenditures.³

HECO and HELCO's short-term borrowings are relatively high and MECO is also in a borrowing position. As of June 30, 2006, short-term borrowings for HECO (net of loans to HELCO of \$50.1 million and MECO of \$6.5 million) were about \$106.9 million. HELCO's and MECO's short-term borrowings were \$50.1 million and \$6.5 million, respectively, as of the same date. Applicants state that issuance of the revenue bonds would allow each company to reduce the level of short-term borrowings, which will aid liquidity and reduce interest rate risk.

Applicants assert that the revenue bond proceeds will be used either to pay for or to reimburse Applicants for qualified expenditures made on qualifying projects that have received all

²The Amended Application was filed under HRS § 269-17 and HAR Chapter 6-61, Subchapter 9.

³Amended Application at 5-6.

appropriate approvals and certifications.⁴ Applicants state that the projects can proceed before the revenue bonds are sold, with project expenditures being financed through short-term borrowings or internal sources of funds. Qualifying expenditures made after the requisite "official action" can be reimbursed after the necessary revenue bond certifications and approvals have been obtained.

Applicants maintain that they wish to borrow the proceeds from sales of revenue bonds because in the current interest rate and tax environment, such borrowings entail a lower cost than do other forms of "equivalent" taxable debt. With limited exceptions, the interest earned by the buyer of revenue bonds is not taxable income for federal or state income tax purposes, making revenue bonds attractive to investors (even though they bear a lower interest rate than other forms of debt).

As such, Applicants request the following approvals and certifications:

1. Approval of the energy projects permitted to be financed by borrowing proceeds from the issuance

⁴Applicants describe the process as follows: (1) legislative authorization is obtained, i.e., Act 78; (2) "official action" is obtained, i.e., May 26, 2005 for Act 78; (3) appropriate commission proceedings are conducted to obtain needed certifications and approvals, i.e., this proceeding; (4) public hearings, referred to as "TEFRA hearings," are held by the Department on the islands of Oahu, Hawaii and Maui, in connection with the proposed issuance of revenue bonds, on behalf of HECO, HELCO and MECO; (5) revenue bonds are sold when market conditions are appropriate and the proceeds are placed in the custody of the construction fund trustee; and (6) Applicants establish that qualifying expenditures have been made on approved and certified projects to the satisfaction of the construction fund trustee, who then allows Applicants to draw down the proceeds to reimburse Applicants for their expenditures. Amended Application at 7, 9.

- and sale of revenue bonds, as listed on each of HECO's, HELCO's and MECO's Exhibits 9 to the Application ("Project Lists"), pursuant to Act 78;
2. Certification that the energy projects listed on each of HECO's, HELCO's and MECO's Exhibits 9 are "for the local furnishing of electricity";
 3. General approvals related to revenue bond financings, including:
 - a. Approval for each of HECO, HELCO and MECO, alone or together, with one or more others, to participate with the Department in one or more revenue bond financings ("Revenue Bond Financings"), of up to the total amount of revenue bonds authorized by Act 78, i.e., up to \$100 million for HECO, up to \$40 million for HELCO, and up to \$20 million for MECO;
 - b. Approval to borrow the proceeds from the issuance of the revenue bonds through entry into one or more loan agreements with the Department ("Loan Agreement"), and issuance by the Applicants of their respective notes (the "Notes");
 - c. Approval for each of the Applicants to issue the Notes and to execute and deliver the Notes and the Loan Agreements, including authorization of HECO, in its discretion, to issue its guarantees of any obligations of

HELCO and MECO (including, but not limited to under the Notes and each Loan Agreement (the "HECO Guarantees")), and to execute and deliver other financing documents (collectively, the "Financing Documents") that are necessary or desirable to complete the Revenue Bond Financings;

- d. Approval to carry out each of the Revenue Bond Financings either alone or combined with revenue bond financings under future legislative authorizations, to finance facilities for the local furnishing of electric energy and/or with refunding revenue bond financings in a single offering, consisting of one or more series; and
- e. Approval to purchase bond insurance for one or more series of revenue bonds issued under Act 78, if the purchase of bond insurance is desirable and provides an overall savings in comparison to a sale of revenue bonds under Act 78 without insurance, and to enter into one or more negative covenant agreements and other agreements between HECO and the bond insurer if a negative covenant and/or other agreements are required as a condition to obtaining the bond insurance;

4. Approval to participate in the issuance and sale of revenue bonds under the 2005 Legislative Authorization ("Act 78 Bonds"), in one or more offerings and in one or more series, within the parameters set forth in Part VIII of the Amended Application, of up to a total of \$100 million for HECO, \$40 million for HELCO, and \$20 million for MECO; and
5. Approval of the procedure described in Part IX of the Amended Application to obtain expedited approval from the commission of any changes in the parameters under which the Act 78 Bonds may be issued, if such changes are required after the parameters are approved as requested in the Amended Application.

In sum, Applicants request the following approvals and certification from the commission: 1) Approval of projects; 2) Certification of projects; 3) General approvals related to revenue bond financing; 4) Approval to participate in the sale of bonds; and 5) Approval to use an expedited approval procedure.

Applicants make their requests pursuant to HRS § 269-17 and Subchapter 9 of Chapter 6-61, HAR.⁵

⁵Applicants state that their audited financial statements were filed with the commission on March 8, 2006, and are incorporated by reference. HAR § 6-61-76 provides, in relevant part, that financial information may be provided by reference to a specific document or documents, or parts thereof, previously filed with the commission.

1.

Approval of Projects

a.

Act 78

By Act 78, the Legislature authorized the Department to issue up to \$160 million of revenue bonds in one or more series. The revenue bonds can be issued during the period from the effective date of Act 78, i.e., July 1, 2005, through June 30, 2010, and may be sold from time to time between the commission decision in this proceeding and June 30, 2010. According to Applicants, the exact timing and amounts of each series of such revenue bonds are dependent primarily on market conditions and the timing of project expenditures for Applicants' projects. While it presently appears that there will be one sale of such revenue bonds by the Department to obtain up to the total of \$160 million authorized by Act 78, Applicants would like the flexibility to participate in the offer of the total \$160 million of bonds authorized by Act 78 in more than one offering as the decision regarding the principal amount of the first offering will not be made until closer to the time of issuance.

b.

Project List

Under Act 78, the commission must approve any project financed by the issuance of revenue bonds. Specifically, Section 2 of Act 78 provides that "commission approval shall be

required for any project financed by the issuance of special purpose revenue bonds under this Act."

Applicants have attached Project Lists⁶ to the Amended Application, which describes the energy projects in the capital improvement programs, which each utility proposes to finance, in whole or part, with the proceeds of the sale of the special purpose revenue bonds issued pursuant to Act 78, and request that the commission approve the projects identified in the Project Lists for each Applicant, pursuant to Act 78.

The estimated cost of the projects listed on the Project Lists, based on each Applicants' project forecasts, is approximately \$420 million for HECO, \$170 million for HELCO, and \$52 million for MECO. These amounts exceed the \$100 million for HECO, \$40 million for HELCO, and \$20 million for MECO which Act 78 authorizes to be raised by the sale of revenue bonds. Applicants seek approval of all projects described in the Project Lists to allow for changes in the timing or scope of individual projects. In addition, some of the project costs are not eligible for revenue bond financing, e.g., costs incurred prior to "official action" are not eligible, and some otherwise eligible costs may be paid, or may have been paid, from the proceeds of other revenue bond financings.

Applicants' Project Lists include particular projects for which commission approval is required pursuant to Paragraph 2.3.g.2 of the commission's General Order No. 7, Standards of Electric Utility Service in the State of Hawaii, as modified by

⁶Amended Application, Exhibits 9.

Decision and Order No. 21002, filed May 27, 2004, in Docket No. 03-0257 ("Rule 2.3.g.2").⁷ Applicants, however, assert that the approvals required under Rule 2.3.g.2 are separate and distinct from the approvals requested in the instant proceeding pursuant to Act 78 and, as such, Applicants are not requesting approval of the projects under Rule 2.3.g.2 in this docket.

Additionally, Applicants' Project Lists include some above-ground transmission system projects that are subject to public hearings pursuant to HRS § 269-27.5.⁸ Applicants contend that the public hearings mandated by HRS § 269-27.5 are not a prerequisite to the commission's approval of the projects either under HRS § 269-17 or Act 78.⁹

Applicants' Project Lists also include some projects involving overhead or underground construction of transmission lines pursuant to HRS § 269-27.6. Applicants maintain that the approvals requested in this docket under Act 78 are separate and distinct from the commission's review and determination pursuant

⁷As modified, Rule 2.3.g.2 requires commission approval of proposed capital expenditures for any single project in excess of \$2.5 million, excluding customer contributions, or ten percent of total plant in service.

⁸HRS § 269-27.5 requires that public hearings be held for 46 kilovolt ("kV") or greater high-voltage electric transmission systems above the surface of the ground through any residential area before approval of the project by the commission.

⁹See Amended Application at 14, n.6 (citing Decision and Order No. 10836, filed on November 9, 1990, in Docket No. 6797; Decision and Order No. 12651, filed on October 6, 1993, in Docket Nos. 7624 and 6797; Decision and Order No. 14396, filed on November 28, 1995, in Docket No. 95-0096; Decision and Order No. 15340, filed on January 28, 1997, in Docket No. 96-0381; and Decision and Order No. 17253, filed on September 27, 1999, in Docket No. 99-0120).

to HRS § 269-27.6(a).¹⁰ Applicants state that they will submit separate requests for approval under HRS § 269-27.6.

2.

Certification of Projects

Pursuant to HRS § 39A-191(2), Applicants request that the commission certify that the facilities for each energy project or multi-project program to be financed with the bond proceeds are for the "local furnishing of electric energy."¹¹ According to Applicants, all of the facilities in Applicants' multi-project programs are for the "local furnishing of electric energy" under HRS § 39A-191. In addition, Applicants claim that all four requirements of HRS § 39A-191(3) are met, as the facilities include only property or land that is or will be depreciable property or land; used to produce, collect, generate,

¹⁰HRS § 269-27.6(a) requires that whenever a public utility applies to the commission for approval to build a new 46 kV or greater transmission system, either above or below the surface of the ground, the commission shall determine whether the transmission system should be built above or below the surface of the ground and consider: (1) whether a benefit exists that outweighs the costs of placing the electric transmission system underground; (2) whether there is a governmental public policy requiring the transmission system to be build underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding; (3) whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding; (4) the recommendation of the Consumer Advocate; and (5) any other relevant factors. Commission determination for a 138 kV or greater transmission line requires an evaluation of other factors set forth in HRS § 269-27.6.

¹¹In relevant part, HRS § 39A-191(2) provides that an "energy project" "means any facilities for each single project or multi-project program of a project party which is certified by the [commission] as being for the local furnishing of electric energy"

transmit, store, distribute or convey electric energy; used in the trade or business of furnishing electric energy; and part of systems providing service to the general public in the Honolulu, Hawaii or Maui counties.

3.

General Approvals Related to Revenue Bond Financing

a.

Combined Financing

Applicants request the flexibility to carry out each of the Revenue Bond Financings alone or in combination with (a) one or more series of revenue bonds issued under future legislative authorizations to finance the facilities of the relevant Applicant for the local furnishing of electricity ("Non-refunding Bonds"), and/or (b) one or more refunding revenue bond financings. Applicants assert that this flexibility would allow financings to be combined if circumstances present at the time make it desirable to do so.

b.

Sale of Revenue Bonds in One or More Series

Applicants further request permission to structure the proposed Revenue Bond Financings so that revenue bonds can be sold in one or more series in a single offering (permitting each series to be issued with its own pricing terms). Applicants state that they have been advised that this type of flexibility could attract a greater number of investors, attracted by different bond

features, e.g., different maturities, discount and redemption terms, thereby decreasing the interest rate or rates at which bonds can be sold.¹²

c.

Principal Financing Documents

Applicants state that each of the Revenue Bond Financings will involve the following principal Financing Documents, or their equivalents, which are in substantially the same form as documents used for previous special purpose revenue bond financings completed by Applicants:

1. Preliminary Official Statement and Final Official Statement covering each Revenue Bond Financing, describing the revenue bonds and the principal bond documents, and providing certain information concerning the applicable Applicant;
2. Loan Agreement between the Department and the applicable Applicant, typically including the HECO Guarantee of any obligations of HELCO and MECO, and specifying the form of the Notes to be issued by each Applicant to evidence its respective borrowings;
3. Bond Purchase Agreement between the Department and the underwriters

¹²Amended Application at 18.

representing the underwriters' agreement to purchase the revenue bonds from the Department, subject to a number of conditions;

4. Inducement Letter to the Department and the underwriters from the applicable Applicant making numerous representations, providing indemnities, and requesting that the Department and the underwriters execute and deliver the Bond Purchase Agreement;
5. Trust Indenture between the Department and the bond trustee, which will cover the mechanics for issuing, paying, redeeming and administering the revenue bonds and for the deposit at closing, and the distribution to the applicable Applicants, of the proceeds from the sale of the revenue bonds;
6. Notes to evidence the borrowing by each Applicant, as applicable, of the proceeds from each Revenue Bond Financing;
7. Tax Certificate and Agreement between the Department and the applicable Applicant under which the Applicant will commit to preserve the tax-exempt status of the related revenue bonds;

8. Continuing Disclosure Agreement between the bond trustee and the appropriate Applicant requiring the Applicant to provide certain on-going information to certain repositories, which in turn make the information available to the public;
9. Insurance Agreement between the bond insurer and the relevant Applicant setting forth any post-closing obligations of the Applicant not included in other financing documents, such as to pay post-closing insurance premiums, if any; and
10. Bond Insurance Policy issued by the bond insurer setting forth the terms of the bond insurance coverage.

d.

Loan Agreement (Including HECO Guarantee)

According to Applicants, they expect to enter into one or more Loan Agreements with the Department, as provided in HRS § 39A-195, with respect to financing part or all of the cost of the projects on Applicants' Project Lists. Under each Loan Agreement, the Department will lend to the appropriate Applicant the proceeds from each sale of revenue bonds, which Applicants state will be used to pay, or to reimburse Applicants for, construction and other energy project costs. Funds held by the construction fund trustee prior to the need for the funds for such

projects will be invested as directed by the appropriate Applicant, unless there is a default. Interest earned on these funds will be credited to the construction fund or bond fund in accordance with the Trust Indenture.

Aside from certain necessary or desirable changes unique to these transactions, each Loan Agreement is expected to have substantially the same form as the loan agreements entered into by Applicants in previous sales of revenue bonds and refunding revenue bonds that were reviewed and approved by the commission.¹³

Under each Loan Agreement, each Applicant will be obligated to repay the respective proceeds borrowed from the sale of the revenue bonds by making payment in amounts sufficient to pay the principal of, redemption premium (if any), and interest on the revenue bonds as such amounts become due. To evidence the obligation to repay each loan, each Applicant participating in the Revenue Bond Financing will deliver to the Department or the bond trustee its Note in the amount of its respective loan. The Notes of all the Applicants participating in the Revenue Bond Financing taken together will be in an aggregate principal amount equal to the principal amount of the related issue of revenue bonds. The terms of the Notes will generally be duplicative of the terms of the related revenue bonds with respect to interest rates, maturity, redemption, and other provisions.

The obligations of HELCO and MECO under any Loan Agreement to which it is a party, each respective Note, and any

¹³Applicants refer to Docket Nos. 6333, 6554, 6797, 7624, 95-0096, 97-0351, 99-0060, 99-0120, 00-0120 and 03-0045. See Amended Application at 21.

related agreements, will probably be guaranteed by HECO. Aside from certain necessary or desirable changes unique to these transactions, the HECO Guarantees will be in the same form as the guarantees set forth in the loan agreements filed with the commission in previous dockets.

e.

Other Agreements and Instruments

It may also be necessary for Applicants to enter into other agreements in connection with each proposed Revenue Bond Financing. Applicants state that any such proposed arrangement will be included in Applicants' requests for expedited approval, as described in Section IX of the Amended Application.

f.

Allocation of Proceeds, Type of Sale and Interest Rate

If less than the entire aggregate principal amount of special purpose revenue bonds authorized by Act 78 are to be offered in a sale of such revenue bonds, then the proceeds from each sale authorized by Act 78 will be allocated among the Applicants based primarily on the timing and relative amounts of their project expenditures. Applicants state that the exact allocation of the proceeds will be determined near the time that the revenue bonds are sold. The Notes issued by each Applicant will correspond to the respective amounts loaned to each of them. Applicants expect that the revenue bonds will be sold through negotiated public offerings, offering them more timing

flexibility, and permitting the development of a relationship with investment bankers who are willing to provide other services to the Applicants. In the Amended Application, Applicants seek approval to issue the revenue bonds as fixed rate bonds. Applicants state that if approval to issue floating rate revenue bonds is desired, they will ask for expedited commission approval of this parameter.

g.

Issuance Costs

The issuance costs of the proposed Revenue Bond Financings, which are estimated to be \$3,802,000,¹⁴ will generally be allocated among Applicants based on the relative amounts of the net proceeds loaned to each Applicant. A detailed description of the issuance costs for the proposed Revenue Bond Financings (assuming that all revenue bonds are issued in one offering) is set forth in Exhibit B to the Amended Application.

h.

Bond Insurance and Negative Covenants

Applicants request approval to purchase bond insurance for one or more series of the revenue bonds issued under Act 78, if, in their judgment, the procurement of bond insurance will result in net cost savings after taking into account the insurance premiums that must be paid by the Applicants to obtain the insurance, and such savings are not outweighed by the

¹⁴See Amended Application, Exhibit B.

disadvantages of restrictions imposed by the bond insurer. Applicants assert that bond insurance obligates the insurer to make interest and principal payments on insured bonds in the event Applicants do not make these payments. Thus, bond insurance ensures buyers of the bonds that interest and principal payments will be made, whether by the Applicants or by the insurer. Applicants state that insured revenue bonds receive the higher credit rating of the insurer, rather than the credit rating of the Applicants, thereby reducing the interest rate to be paid on the bonds by the Applicants.

If bond insurance is purchased, Applicants request commission approval to enter into agreements with the bond insurer that contain negative covenants and other restrictions, if such negative covenants and restrictions are required by the bond insurer. Negative covenants would provide, for example, that without the consent of the bond insurer (which consent may not be unreasonably withheld), Applicants will not issue first mortgage bonds or similar secured debt, without equally and ratably securing the debt to be insured by the bond insurer or other outstanding bonds insured by the bond insurer, with exceptions and limitations which are the same or in substance similar to those included in negative covenants previously entered into by Applicants.¹⁵

¹⁵Applicants state that each negative covenant agreement is expected to be in substantially the same form as ones entered into by HECO in previous sales of revenue bonds, which are on file with the commission in Docket Nos. 99-0120, 99-0060, 00-0120 and 03-0045. See Amended Application at 24.

Applicants state that the disadvantage of the negative covenant is that it will restrict Applicants' ability to issue secured debt in the future; however Applicants do not believe that this is a meaningful disadvantage, since, among other things, Applicants do not intend to issue secured debt in the future and they are also subject to similar restrictions by reason of provisions in already outstanding agreements. Applicants add that the negative covenant would have several negotiated exceptions to provide financing flexibility, and in the worst case, would permit the issuance of secured debt if the insured bonds covered by such covenants were at the same time equally and ratably secured.¹⁶

Additionally, if Applicants decide to procure bond insurance, the insurer may also require other restrictive provisions, such as mandatory redemption and loan repayment provisions, including, but not limited to, provisions that

in substance provide for a mandatory redemption of the bonds upon written notice from the bond insurer to the trustee for the bonds that the bonds are to be called for redemption because (a)(i) HECO has reorganized or transferred a substantial portion of its assets, (ii) the reorganization or transfer has resulted in HECO no longer being engaged in the business of the distribution of electricity in the City and County of Honolulu, (iii) the obligations of HECO under its loan agreement and note have neither been assumed nor guaranteed by the resulting entity that is thereafter to engage in the distribution of electricity in the City and County of Honolulu and (iv) the bond insurer has not consented to such reorganization or transfer or (b) HECO has failed to pay to the bond insurer any insurance premiums in respect of the bond insurance that are due under a deferred premium arrangement.

Amended Application at 25.

¹⁶Id. at 25.

In considering the purchase of bond insurance, Applicants will weigh the overall financial savings of purchasing the insurance against the restrictions of the related negative covenant and restrictive provisions. If, in the judgment of Applicants, "the savings that will be realized by purchasing bond insurance outweigh the restrictions, and if the related sale can be concluded on a timely basis with the purchase of bond insurance, then [Applicants'] request the flexibility to purchase bond insurance and enter into a related negative covenant and other restrictions" required by the insurer.¹⁷

4.

Approval to Participate in the Sale of Bonds

In connection with their request to participate in the issuance and sale of Act 78 Bonds, Applicants request that the commission approve the following parameters within which the Act 78 Bonds and the related Notes may be issued:

Designation: Each series of bonds shall include in its designation the year of issuance, e.g., 2007, and, if any of the Applicants anticipate issuing more than one series of special purpose revenue bonds or refunding special purpose revenue bonds in that year, a letter designating the particular series, e.g., Series 2007A.

Aggregate Principal Amount: Up to \$160,000,000 as follows:
HECO: Up to \$100,000,000
HELCO: Up to \$40,000,000
MECO: Up to \$20,000,000

¹⁷Id. at 26.

Maturity: Such date for each series of bonds which is not more than 30 years from the date of issuance and not more than 120% of the weighted average reasonably expected economic life of the projects to be financed with the proceeds of the bonds, calculated in compliance with Section 147(b) of the Internal Revenue Code.

Interest Rate: Fixed interest rate not to exceed 7.5%.

Price: Not less than 95% of the principal amount of the bonds.

Underwriting Commission: Up to 2.0% of the principal amount of the bonds.

Redemption Provisions: Substantially as provided for in connection with previous series of special purpose revenue bonds or refunding special purpose revenue bonds issued for the benefit of the Applicants, except (a) if an optional redemption is permitted, the period which must elapse before an optional redemption may occur, and/or the redemption premium schedule or methodology, may be changed, and/or (b) if more than one series of bonds is issued, the redemption provisions may vary as between each series of bonds.

Covenants: Substantially as provided for in previous series of special purpose revenue bonds or refunding special purpose revenue bonds issued for the benefit of the Applicants.

5.

Approval to Use Expedited Approval Procedure

Applicants request that the commission approve the following procedure to obtain expedited approval from the commission for any changes in the parameters under which the Act 78 Bonds may be issued, if such changes are required by market conditions or other factors after the parameters are approved as requested in the Amended Application:

1. HECO, on its behalf and for HELCO and MECO, will file with the commission, and deliver to the Consumer Advocate, a letter request in this docket, for expedited approval of the changes in the parameters under which the Act 78 Bonds may be issued. This letter would set forth only the revised parameters for which commission approval is being sought and would also include any significant variation from what is described in the Amended Application with respect to the principal terms and conditions of the financing.
2. Upon receipt of the commission's expedited approval, each Applicant shall be authorized to participate in the proposed sale of revenue bonds, i.e., to borrow the proceeds from the sale of the revenue bonds, to issue their respective Notes to the Department or its Trustee, and to execute and deliver the Financing Documents and any and all other documents that are necessary or desirable in order to conclude the proposed financing, so long as the financing falls within the approved revised parameters and those parameters previously approved by the commission (and for which revision is not sought).

Applicant asserts that the proposed expedited procedure is similar to the procedure approved in previous commission dockets.¹⁸

¹⁸See Decision and Order No. 10836, in Docket No. 6797, as modified by Decision and Order No. 10862, filed on November 28, 1990, in Docket Nos. 6797 and 6554; Decision and Order No. 10836, as modified by Decision and Order No. 12045, filed on December 1, 1992, in Docket Nos. 7518 and 6797; Decision and Order No. 12651, filed on October 6, 1993, in Docket Nos. 7624 and 6797; Decision and Order No. 14396, filed on November 28, 1995, in Docket No. 95-0096; Decision and Order No. 15340, filed on January 28, 1997, in Docket No. 96-0381; and Decision and Order No. 17253, filed on September 27, 1999, in Docket No. 99-0120.

6.

Applicants' Reports to the Commission

Applicants state that they will report the results of each of the Revenue Bond Financings to the commission "as soon as practicable" after they are concluded, and will include the following: (1) a statement of the actual expenses incurred; (2) a copy of the final official statement; (3) a copy of the opinion of bond counsel to the effect that interest on the revenue bonds is exempt from federal and Hawaii income taxes under the law and regulations in effect at the time the revenue bonds are issued (with certain limited exceptions); (4) a copy of the principal Financing Documents and other final documents used in the revenue bond financing if requested by the commission; and (5) a report, to the commission within sixty (60) days after each sale of revenue bonds under Act 78, which supplies the information required by HRS § 39A-208(b).¹⁹

B.

Consumer Advocate's Position

On December 21, 2006, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to approval of the Amended Application ("Statement of Position"). According to the Consumer Advocate, there appears to be a need for the funds that would be generated from the proposed

¹⁹Applicants state that Act 78 does not require reports to the Legislature regarding revenue bonds issued under the act, thus no annual reports will be submitted unless requested by the commission.

debt. The Consumer Advocate notes Applicants' concern that their existing levels of short-term debt were at a high level, and that those levels expose Applicants to different risks, such as rising interest rates. Additionally, it appears to the Consumer Advocate that Applicants need external sources of financing to fund the construction of the various capital projects that are forecasted for the near future.

Next, the Consumer Advocate states that Applicants' intended uses of the expected proceeds appear to be reasonable and should be approved as consistent with HRS § 269-17, provided that any approval in this docket should not supersede the approval required pursuant to HRS §§ 269-27.5 and 269-27.6, or Rule 2.3.g.2. In addition, the Consumer Advocate argues that the commission should find that the proposed projects are needed for the "local furnishing of electric energy" and would consist of "energy projects."

With regard to the approvals and authorizations relevant to the revenue bond financing, the Consumer Advocate states that the proposed debt issuance does not appear to significantly impact the capital structure for the Applicants,²⁰ but that the actual impact will require analysis in future rate proceedings and consideration of the actual amount of debt issued, the rate at which it was issued, and the impact, if any,

²⁰The Consumer Advocate has determined that if the entire debt amounts are issued to HECO, HELCO and MECO, i.e., \$100 million, \$40 million, and \$20 million, respectively, the total long-term debt balance would increase by an amount that is less than 9% of HECO's capitalization, about 12% of HELCO's total capitalization, and by approximately 6% of MECO's total capitalization. Statement of Position at 9-10.

on other capital structure components. The Consumer Advocate, however, suggests that Applicants be limited to a fixed interest rate not to exceed 7.5%. According to the Consumer Advocate, given current market conditions, the earlier estimate of the cost of revenue bonds in the Original Application, and the current rates of special purpose revenue bonds, the upper parameter of 7.5% appears high, and should instead be set at 7%, which would still afford Applicants flexibility between what market conditions might require as an interest rate and the upper threshold. Thus, the Consumer Advocate does not object to the debt issuance or the various approvals and authorization being sought, assuming that the upper parameter is set at 7.0%.

Since the Consumer Advocate does not oppose the commission's approval of the issuance of the special purpose revenue bonds, it also does not object to the commission's approval to participate in the sale of the initial bonds. The Consumer Advocate also does not object to Applicants' request for an expedited approval procedure, as it appears to be similar to procedures that were approved by the commission in prior financing dockets.

With regard to Applicants' request for "such other relief as may be necessary or desirable in order to enable Applicants to carry out the Revenue Bond Financings and related programs," the Consumer Advocate contends that the request is nebulous and does not specify what relief is being requested. The Consumer Advocate does not, however, object to the approval of this provision so long as the commission includes a provision

similar to that imposed in Docket No. 99-0120, i.e., that Applicant is required to notify the commission of the nature of such relief prior to taking any action.²¹

Finally, in conjunction with Applicants' representations regarding the filing of reports, the Consumer Advocate states that its recommendation is predicated upon assurances made in the Application that certain documents would be provided to the commission.²² The Consumer Advocate also recommends that the commission require Applicants to provide an analysis demonstrating that bond insurance, if purchased, is in the public interest. In support, the Consumer Advocate argues that the requirement should not be difficult to satisfy for Applicants, as such analysis should be readily available to Applicants. In addition, the commission adopted a similar recommendation in Decision and Order No. 21497, filed on December 17, 2004, in Docket No. 04-030.

C.

Applicants' Response

On January 26, 2007, Applicants filed a response to the Consumer Advocate's Statement of Position in which Applicants expressed their disagreement with certain of the caveats to

²¹Ordering Paragraph 16 of Decision and Order No. 17253 provides that "[a]pplicants are granted such further relief as may be necessary or desirable in order to enable Applicants to carry out the revenue bond financings described in the application provided that Applicants notify the commission of the nature of such relief prior to taking any actions thereon."

²²See Amended Application at 32-33.

approval of the Amended Application recommended by the Consumer Advocate in its Statement of Position ("Applicants' Response").

Specifically, Applicants request that the commission: (1) retain Applicants' proposed 7.5% maximum interest rate parameter; (2) in the event that the commission requires a report on the cost effectiveness of bond insurance (should such insurance be purchased by Applicants), that said report be similar to reports Applicants provided to the commission on previous occasions; and (3) the commission grant "such other and further relief" as requested in the Amended Application, without the qualification suggested by the Consumer Advocate, i.e., that prior to taking any action not described in the Amended Application, Applicants will inform the commission of the action to be taken.

With respect to the interest rate parameter, Applicants state that the proposed 7.5% maximum interest rate parameter "considers the interest rate of an uninsured revenue bond, since the decision whether or not to purchase insurance would be done nearer the time of sale."²³ Since market conditions are subject to change, Applicants assert that "setting the upper limit at 7.5% . . . is not unreasonable and allows for reasonable flexibility for the sale of the bonds in the future without having to return to the commission for further authorizations

²³Applicants' Response at 2.

should interest rates rise (but still remain under the parameter)."²⁴

Regarding the Consumer Advocate's recommendation that Applicants submit a report on the cost effectiveness of bond insurance, Applicants do not object to this requirement "if this means filing the type of report [Applicants] were required to file in previous financing dockets,"²⁵ i.e., where Applicants were required to provide a report demonstrating that the purchase of bond insurance would be cost effective and result in savings to Applicants.

Finally, Applicants object to the Consumer Advocate's suggestion that language in its Amended Application that the commission grant "such other and further relief as may be necessary or desirable in order to enable Applicants to carry out the Revenue Bond Financings and related programs as described in this Amended Application" be amended to require Applicants to inform the commission of any particular action that might be required that was not described in the Application. Applicants assert that this requirement is impractical, burdensome to both Applicants and the commission, and "could also raise doubts with underwriters or other third parties as to whether the [Applicants] have been authorized to complete the proposed

²⁴Id.

²⁵Id. at 3. Applicants cite Decision and Order No. 21497, filed on December 17, 2004, in Docket No. 04-0303 ("Decision and Order No. 21497"). In Decision and Order No. 21497, the commission required Applicants to "provide the commission and the Consumer Advocate with a report demonstrating that the purchase of the bond insurance would be cost effective and result in savings to the Applicants." Decision and Order No. 21497 at 11.

financing transaction."²⁶ Notwithstanding that the Amended Application did not list every possible action which may be required to consummate the proposed Revenue Bond Financings, Applicants contend that to include the Consumer Advocate's suggested language would be impractical and could lead third parties to question whether the Applicants had in fact received commission approval to complete the proposed transaction.²⁷

D.

Parties' Stipulation

By letter dated and filed on March 2, 2007, the Parties filed a letter informing the commission that they had reached an agreement on the three outstanding issues and were jointly recommending: "(1) using 7.25% for the upper interest rate parameter for the revenue bonds, (2) the granting of 'other and further relief' subject to the proviso [that Applicants notify the commission of the nature of such relief prior to taking any actions thereon], and (3) requiring the Companies to file an analysis regarding the cost savings achieved if it purchases bond insurance."

²⁶Id. at 4.

²⁷Applicants also urge the commission to reject such language requiring Applicants to notify the commission of the "nature" of any further relief, as that too, may cause third parties to question the nature of the commission's approval to Applicants. Id.

II.

Discussion

A.

Approval of Projects

Section 2 of Act 78 provides that "commission approval shall be required for any project financed by the issuance of special purpose revenue bonds under this Act." Included in Applicants' Amended Application are Project Lists,²⁸ which describe the energy projects which each applicant proposes to finance, in whole or part, with the proceeds of the sale of the special purpose revenue bonds issued pursuant to Act 78. Applicants request that the commission approve the projects identified in the Project Lists for each Applicant, pursuant to Act 78.

The estimated cost of the projects listed on the Project Lists, based on each Applicants' project forecasts, is approximately \$420 million for HECO, \$170 million for HELCO, and \$52 million for MECO. These amounts exceed the \$100 million for HECO, \$40 million for HELCO and \$20 million for MECO which Act 78 authorizes to be raised by the sale of revenue bonds. In addition, some of the project costs are not eligible for revenue bond financing, and some otherwise eligible costs may be paid, or may have been paid, from the proceeds of other revenue bond financings.

Consistent with prior revenue bond financing dockets, the commission will not consider whether any particular project on Applicants' Project Lists comply with HRS §§ 269-27.5,

²⁸Amended Application, Exhibits 9.

269-27.6 or Rule 2.3.g.2. Instead, the commission's review is limited to a determination of whether the projects on the Project Lists are for a purpose enumerated in HRS § 269-17, which states, in part:

A public utility corporation may, on securing the prior approval of the public utilities commission, and not otherwise, issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness, payable at periods of more than twelve months after the date thereof, for the following purposes and no other, namely: for the acquisition of property or for the construction, completion, extension, or improvement of or addition to its facilities or service, or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income or from any other moneys in its treasury not secured by or obtained from the issue of its stocks or stock certificates, or bonds, notes, or other evidences of indebtedness, for any of the aforesaid purposes except maintenance of service, replacements, and substitutions not constituting capital expenditure in cases where the corporation has kept its accounts for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which the expenditures were made, and the sources of the funds in its treasury applied to the expenditures. . . . All stock and every stock certificate, and every bond, note, or other evidence of indebtedness of a public utility corporation not payable within twelve months, issued without an order of the commission authorizing the same, then in effect, shall be void.

HRS § 269-17. In approving an application filed under HRS § 269-17, the commission must find that the proposed purpose of the transaction will not have a material adverse effect on a company's public utility operations.²⁹

²⁹See In re Hawaiian Electric Company, Inc., Maui Electric Company, Limited, and Hawaii Electric Light Company, Inc., Docket No. 00-0120, Decision and Order No. 18151, filed on

Here, the use of the proceeds of the revenue bonds for the projects described in Applicants' Project Lists is consistent with HRS § 269-17, and would not appear to have a material adverse effect on Applicants' public utility operations. The commission recognizes Applicants' desire to reduce their currently high levels of short term debt and that Applicants, through the proposed Revenue Bond Financings, will, in part, replace existing debt with less expensive debt, which should not adversely affect Applicants' public utility operations. Moreover, Applicants' participation in the proposed financial transactions, if deemed desirable and market conditions are favorable, will lower Applicants' cost of capital (i.e., their debt), which should ultimately benefit their ratepayers.

B.

Certification of Projects

Pursuant to HRS § 39A-191(2), the commission must certify that the facilities for each energy project or multi-project program to be financed with the bond proceeds are for the "local furnishing of electric energy."

Upon a review of the projects listed on the Project Lists, the commission finds that the projects are facilities for the "local furnishing of electric energy," as that term is defined by HRS § 39A-191(3). Specifically, the commission finds

October 20, 2000, at 10-11; In re Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited, Docket No. 04-0303, Decision and Order No. 21497, filed on December 17, 2004, at 12.

that the facilities consist of property and land that are or will be: (1) depreciable; (2) used to produce, collect, generate, transmit, store, distribute, or convey electric energy; (3) used in the trade or business of furnishing electric energy; and (4) part of the systems providing service to the general public of the City and County of Honolulu, the County of Hawaii, or the County of Maui.

C.

Approvals Related to Revenue Bond Financings

As noted above, Applicants request approval to participate in one or more Revenue Bond Financings of up to \$100 million for HECO, up to \$40 million for HELCO, and up to \$20 million for MECO for a total of \$160 million, which is the entire amount authorized by Act 78. As part of the necessary approvals, Applicants also request approval to carry out the Revenue Bond Financings alone or in combination, and in one or more series. In addition, Applicants seek commission approval to enter into Financing Documents, including the Notes and one or more Loan Agreements (including the HECO Guarantees) needed for the sale by the Department of each series of revenue bonds issued under Act 78. Applicants also seek approval of the allocation of proceeds, issuance costs, bond insurance and certain negative covenants.

The Consumer Advocate did not object to approval of any of these items with the exception of the bond insurance requirement. With respect to bond insurance, the

Consumer Advocate recommended that the commission require Applicants to provide an analysis demonstrating that the purchase of bond insurance, if any, is in the public interest. Applicants did not oppose this requirement "if this means filing the type of report [Applicants] were required to file in previous financing dockets," i.e., where Applicants were required to provide a report demonstrating that the purchase of bond insurance would be cost effective and result in savings to the Applicants. In their March 2, 2007 letter, the Parties notified the commission that they agree that Applicants should be required to file the type of report that they were required to file in previous financing dockets, e.g., Docket No. 04-0303, if bond insurance is purchased.

Upon review, the commission finds that the approvals related to the Revenue Bond Financings requested by Applicants are appropriate. With regard to bond insurance, the commission finds that requiring Applicants to file a report with the commission and the Consumer Advocate demonstrating that the purchase of bond insurance was cost effective and resulted in cost savings to Applicants, similar to the requirement imposed by the commission in previous dockets, e.g., Docket No. 04-0303, is reasonable and in the public interest and will require Applicants to file such report.

D.

Approval to Participate in Sale of Bonds

In connection with its request to participate in the issuance and sale of Act 78 Bonds, Applicants request that the commission approve certain parameters within which the Act 78 Bonds and the related Notes may be issued. The Consumer Advocate did not object to any of these parameters with the exception of the fixed interest rate, which the Consumer Advocate suggested should be limited to a fixed interest rate not to exceed 7%, as opposed to the 7.5% requested by Applicants. According to the Consumer Advocate, given current market conditions, the earlier estimate of the cost of revenue bonds in the Original Application, and the current rates of special purpose revenue bonds, the upper parameter of 7.5% is too high, and should instead be set at 7%, which would still afford Applicants flexibility between what market conditions might require as an interest rate and the upper threshold.

Applicants, however, requested that the commission retain Applicants' proposed 7.5% maximum interest rate parameter, as the proposed 7.5% maximum interest rate parameter "considers the interest rate of an uninsured revenue bond, since the decision whether or not to purchase insurance would be done nearer the time of sale."³⁰ Since market conditions are subject to change, Applicants asserted that "setting the upper limit at 7.5% . . . is not unreasonable and allows for reasonable flexibility for the sale of the bonds in the future without

³⁰Applicants' Response at 2.

having to return to the commission for further authorizations should interest rates rise (but still remain under the parameter)."³¹

In their March 2, 2007 letter, the Parties notified the commission that they had agreed to using 7.25% for the upper interest rate parameter for the revenue bonds.

Upon review, the commission finds a maximum interest rate parameter of 7.25% to be reasonable in that it provides Applicants with the flexibility to react to market changes should they occur, yet also takes into consideration the Consumer Advocate's initial concern that the upper parameter of 7.5%, proposed by Applicants in the Amended Application, is too high. Accordingly, the commission concludes that the maximum interest rate parameter for the initial sale of revenue bonds in this docket should be 7.25%.

E.

Expedited Approval Procedure

Applicants request that the commission approve the use of the expedited approval procedure described in Section IX of the Amended Application for any changes in the parameters under which the Act 78 Bonds may be issued, if such changes are required by market conditions or other factors after the parameters are approved. As the expedited approval procedure is similar to the procedure approved in previous commission dockets,

³¹Id.

the commission finds it appropriate to approve the expedited approval procedure described in the Amended Application.

F.

Other Relief

In their Amended Application, Applicants also requested "such other relief as may be necessary or desirable in order to enable Applicants to carry out the Revenue Bond Financings and related programs." The Consumer Advocate requested that approval of this provision be conditioned on the commission including a provision similar to that imposed in Docket No. 99-0120, i.e., that Applicant is required to notify the commission of the nature of such relief prior to taking any action.³²

Applicants, however, objected to the Consumer Advocate's suggestion that such language be amended to require Applicants to inform the commission of any particular action that might be required that was not described in the Application. Applicants asserted that this requirement was impractical, burdensome to both Applicants and the commission, and "could also raise doubts with underwriters or other third parties as to whether the [Applicants] have been authorized to complete the proposed financing transaction."³³

³²Ordering Paragraph 16 of Decision and Order No. 17253 provides that "[a]pplicants are granted such further relief as may be necessary or desirable in order to enable Applicants to carry out the revenue bond financings described in the application provided that Applicants notify the commission of the nature of such relief prior to taking any actions thereon."

³³Id. at 4.

In their March 2, 2007 letter, the Parties notified the commission that they had agreed to inclusion of the following provision: "Applicants are granted such further relief as may be necessary or desirable in order to enable Applicants to carry out the revenue bond financings described in the Amended Application provided that Applicants notify the Commission of the nature of such relief prior to taking any actions thereon." According to the Parties, this provision is similar to the approval granted in a previous financing docket, e.g., Docket No. 99-0120.

Here, the commission finds it reasonable to grant Applicants any further authority that is necessary or desirable to enable Applicants to carry out the Revenue Bond Financings described in the Amended Application. The commission also finds it reasonable to require Applicants to notify the commission prior to exercising any such further authority. Accordingly, the commission will grant Applicants such further authority as may be necessary or desirable in order to enable Applicants to carry out the revenue bond financings described in the Amended Application provided that Applicants notify the commission of the nature and extent of such further necessary or desirable authority prior to exercising such authority and taking any actions based thereon.

III.

Orders

THE COMMISSION ORDERS:

1. The energy projects listed in Applicants' Project Lists, attached to the Amended Application as Exhibits 9, are approved pursuant to Act 78.

2. The energy projects listed in Applicants' Project Lists, attached as Exhibits 9 to the Amended Application, are certified as being for the local furnishing of electric energy, in accordance with HRS § 39A-191(2).

3. Applicants are each authorized to carry out the Revenue Bond Financings either alone or combined in a single offering with one or more Non-refunding Bond financings under future legislative authorizations, and/or one or more refunding revenue bond financings.

4. Each Revenue Bond Financing may consist of one or more series in a single offering.

5. HECO, HELCO and MECO are each authorized, in their discretion, to borrow from the Department or its trustee from time to time in one or more increments, up to a total of \$100 million, \$40 million, and \$20 million, respectively, representing proceeds from one or more sales by the Department of revenue bonds authorized by Act 78, within the parameters approved by the commission.

6. HECO, HELCO and MECO are each authorized, in their discretion, to participate in the Revenue Bond Financings, in one or more issuances and sales, and in one or more series, provided

that the terms of the Act 78 Bonds fall within the parameters described in Part VIII of the Amended Application, except that the maximum interest rate parameter for the initial sale of revenue bonds in this docket shall be 7.25%.

7. HECO, HELCO and MECO are each authorized to enter into one or more Loan Agreements covering borrowings in connection with the Revenue Bond Financings (and providing for the payment by Applicants of all underwriting commissions and other expenses of each contemplated financing), in substantially the form previously entered into in connection with any previous series of special purpose revenue bonds or refunding special purpose revenue bonds, with such changes as are necessary or desirable including changes that may be necessary if it is determined (a) to carry out the Revenue Bond Financings in more than one series and/or more than one offering, (b) to combine in one offering of one or more series of bonds issued under Act 78, other non-refunding bonds and/or refunding bonds, and/or (c) to modify the final terms of any bond insurance arrangements.

8. HECO, HELCO and MECO are each authorized, in their discretion, to issue their respective Notes to the Department, or its trustee, in one or more increments up to a total amount not to exceed \$100 million, \$40 million, and \$20 million, respectively, in connection with the borrowings by the Applicants of the proceeds from the sale (or sales) of revenue bonds authorized by Act 78 and issued by the Department from time to time (such Notes in total to correspond in principal amount,

interest rate, maturity and redemption provisions to the related revenue bonds).

9. HECO, HELCO and MECO are each authorized, in their discretion, to execute and deliver any and all Financing Documents that are necessary or desirable in order to conclude any or all of the proposed Revenue Bond Financings.

10. HECO is authorized, in its discretion, in connection with the borrowings by HELCO and MECO from the Department or its trustee of a portion of the proceeds of the revenue bonds authorized by Act 78, to guarantee the obligations of HELCO and MECO, including under its Loan Agreement(s) and their respective Note(s) and with respect to any of their other obligations.

11. Applicants are authorized to purchase bond insurance for one or more series of revenue bonds issued under Act 78, and to pay the related up-front and any future insurance premiums, if the sale or sales of revenue bonds can be concluded on a timely basis with the purchase of insurance, and if, in the judgment of Applicants, the purchase of bond insurance is desirable, taking into consideration the net cost savings (after taking into account the insurance premiums that must be paid by Applicants to obtain such insurance) weighed against the disadvantages of any required negative covenant or other restrictive provisions (such as the restriction on corporate reorganizations included as a mandatory redemption event for the Series 2002A, Series 2003A, Series 2003B and Series 2005A revenue bonds).

12. Applicants are authorized, in the event any of the Revenue Bond Financings are to be insured, to enter into any insurance agreement or other agreements that may be required to obtain bond insurance, and to include such terms in the Financing Documents as may be required by the bond insurers or as otherwise may be necessary or desirable to complete the related proposed Revenue Bond Financing on an insured basis. Applicants are required to file a report with the commission and the Consumer Advocate demonstrating that the purchase of the bond insurance would be cost effective and result in savings to Applicants in substantially the same form as required in Docket No. 04-0303.

13. HECO is authorized to enter into one or more negative covenant agreements between HECO and the bond insurer in connection with each Revenue Bond Financing, should bond insurance be purchased and should a negative covenant be required, which would in substance provide that, without the consent of the bond insurer (which consent may not be unreasonably withheld), HECO and its subsidiaries will not issue first mortgage bonds or other secured debt without equally and ratably securing the debt to be insured by the bond insurer and other outstanding bonds insured by the bond insurer, with exceptions and limitations which are the same or in substance similar to those included in the negative covenants entered into by HECO in connection with previous series of revenue bonds and refunding revenue bonds.

14. Mandatory redemption and loan repayment provisions are authorized, including, but not limited to provisions that in substance provide for a mandatory redemption of the bonds upon written notice from the bond insurer to the trustee for the bonds that the bonds are to be called for redemption because (a) (i) HECO has reorganized or transferred a substantial portion of its assets, (ii) the reorganization or transfer has resulted in HECO no longer being engaged in the business of the distribution of electricity in the City and County of Honolulu, (iii) the obligations of HECO under its Loan Agreement and Note have neither been assumed nor guaranteed by the resulting entity that is thereafter to engage in the distribution of electricity in the City and County of Honolulu, and (iv) the bond insurer has not consented to such reorganization or transfer; or (b) HECO has failed to pay to the bond insurer any insurance premiums in respect of the bond insurance that are due under a deferred premium arrangement.

15. HECO, HELCO and MECO are each authorized to follow the procedure specified in Part IX of the Amended Application in order to obtain expedited approval from the commission for any changes in the parameters under which the Act 78 Bonds may be issued, if such changes are required after the parameters are approved as requested in the Amended Application.

16. HECO, HELCO and MECO are each authorized to use the proceeds from each Revenue Bond Financing for the purposes set forth in the Amended Application.

17. As soon as practicable, and within the time periods specified, if any, Applicants shall file with the commission and the Consumer Advocate the reports described in Part XIII of the Amended Application.

18. Applicants are granted such further authority as may be necessary or desirable in order to enable Applicants to carry out the revenue bond financings described in the Amended Application; provided that Applicants notify the commission of the nature and extent of such further necessary or desirable authority prior to exercising such authority and taking any actions based thereon.

19. Subject to the actions that are discretionary, Applicants shall conform to all of the commission's orders set forth above. Failure to adhere to the commission's orders may result in further regulatory actions as authorized by law.

DONE at Honolulu, Hawaii MAR - 9 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Benedyne S. Stone
Benedyne S. Stone
Commission Counsel

05-0330.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23292 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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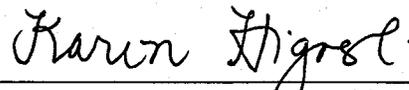
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Certificate of Service
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DATED: MAR - 9 2007