BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----In the Matter of----

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to
Investigate the Proposed Tariffs
Filed by Kauai Island Utility
Cooperative and Other Related
Matters.

DOCKET NO. 2006-0498

ORDER DENYING MOTIONS TO STAY THE
DECISION AND ORDER FILED ON JUNE 24, 2008, AND
SCHEDULING A HEARING ON THE MOTIONS FOR RECONSIDERATION
ORDER DENYING MOTIONS TO STAY THE DECISION AND ORDER FILED ON JUNE 24, 2008, AND SCHEDULING A HEARING ON THE MOTIONS FOR RECONSIDERATION

By this Order, the commission: (1) denies the motions to stay the Decision and Order, filed on June 24, 2008 ("Decision and Order"); and (2) sets a hearing on the motions seeking the reconsideration of said Decision and Order.¹

I. Background

On June 24, 2008, the commission approved in part and denied in part the Settlement Agreement, attached as Exhibit 1 to

¹The Parties in this proceeding are: (1) KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"); (2) HAWAII RENEWABLE ENERGY ALLIANCE; (3) the COUNTY OF KAUAII; (4) CHAPEAU, INC., dba BLUEPOINT ENERGY, STARWOOD HOTELS AND RESORTS WORLDWIDE, INC., and the HAWAII HEALTH SYSTEMS CORPORATION (collectively, the "BluePoint Energy Intervenors"); (5) MARRIOTT HOTELS SERVICES, INC., on behalf of KAUAII MARRIOTT RESORT & BEACH CLUB ("Kauai Marriott"); and (6) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).
the Supplemental Stipulation jointly filed by the Parties on April 14, 2008.² As a result, the commission held that KIUC shall, until the conclusion of its next general rate case proceeding: (1) retain its monthly standby service charge of $5.00 per kW of standby demand for non-renewable projects and facilities; and (2) remove its existing standby service charge for renewable energy systems and projects.

On July 3, 2008, two motions were filed seeking the reconsideration and stay of the commission's Decision and Order, by Kauai Marriott³ and the BluePoint Energy Intervenors,⁴ respectively. In addition, Kauai Marriott and the BluePoint Energy Intervenors request oral argument on their respective motions. On July 9, 2008, KIUC filed its revised standby service tariff sheets, in compliance with Ordering Paragraph No. 5 of the commission's Decision and Order, and on July 10, 2008, the BluePoint Energy Intervenors filed a Joinder to Kauai Marriott's motion for reconsideration and stay.

²Supplemental Stipulation Requesting Approval of Parties' Revised Standby Proposal (Exhibit 1) in Lieu of Stipulation and Proposed Stipulated Procedural Order/Schedule Filed on November 30, 2007; Exhibit 1, Settlement Agreement (hereinafter referred to as the "Revised Standby Proposal"); and Certificate of Service, filed on April 14, 2008 (collectively, "Supplemental Stipulation"). Throughout the Supplemental Stipulation, the Parties utilize the term Revised Standby Proposal in referring to their Settlement Agreement. Hence, the commission likewise utilizes the term Revised Standby Proposal in this Order.

³Kauai Marriott's Motion for Reconsideration and Modification, Suspension, or Vacation of Decision and Order, Memorandum in Support Thereof, Request for Oral Argument, Motion for Stay; and Certificate of Service, filed on July 3, 2008.

⁴'BluePoint Energy Intervenors' Motion for Reconsideration and Request for Oral Argument; and Certificate of Service, filed on July 3, 2008.
II.

Discussion

A.

Motions for Stay

HAR §§ 6-61-137, 6-61-138, and 6-61-140 state:

§6-61-137 Motion for reconsideration or rehearing. A motion seeking any change in a decision, order, or requirement of the commission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall set forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

§6-61-138 Effect of filing. (a) The filing of a motion for reconsideration or rehearing shall not stay a commission decision and order. However, if a motion for a stay accompanies the motion, the commission shall act on the motion for a stay promptly. If a stay is granted, the stay shall remain in effect until disposal of the motion for reconsideration.

(b) Notwithstanding the foregoing, pursuant to section 271-32(b), HRS, a commission order granting a change in motor carrier rates shall be automatically stayed upon the filing of a motion for reconsideration of the order. The stay shall remain in effect until the earlier of: the date the commission renders its decision on the motion for reconsideration or the twentieth day after the motion is filed. The commission may set aside this automatic stay for good cause shown.

§6-61-140 Replies to motions. The commission may allow replies to a motion for rehearing or reconsideration or a stay, if it deems those replies desirable or necessary.

HAR §§ 6-61-137, 6-61-138 (emphasis added), and 6-61-140.
Here, with respect to the motions for stay, the commission notes that by its Decision and Order, KIUC's existing monthly standby service charge of $5.00 per kW for standby demand will remain in place for all distributed generation customers (excluding renewable energy systems and projects, which are exempt from the $5.00 monthly charge) until the completion of KIUC's general rate case proceeding, and the commission intends to adjudicate the motions for reconsideration well before the completion of KIUC's next general rate case proceeding. Thus, the granting of a stay will appear to have no practical effect upon the movants, as the $5.00 rate will continue to apply to movants whether or not a stay is issued herein. Conversely, a stay will delay the implementation of "the exemption of renewable energy systems and projects from the $5.00 monthly charge." For these reasons, the commission denies the motions to stay the commission's Decision and Order.

B.

Motions for Reconsideration

The commission will schedule a hearing on the motions for reconsideration, as follows:

August 20, 2008
9:30 a.m.
Public Utilities Commission
Hearing Room, #B-3
Kekuanaoa Building
465 South King Street
Honolulu, Hawaii

Decision and Order, at 28.
Pursuant to HAR § 6-61-140, the commission will accept any replies to the motions for reconsideration, provided that such replies are filed with the commission by July 18, 2008.\textsuperscript{6} Unless ordered otherwise, the commission will not accept any filings by the movants that respond to any replies, or which otherwise supplements the information set forth in the motions for reconsideration.

III.
Orders

THE COMMISSION ORDERS:

1. The motions to stay the commission's Decision and Order, filed on June 24, 2008, are denied.

2. A hearing on the motions for reconsideration, filed on July 3, 2008, is scheduled for August 20, 2008, 9:30 a.m., at the commission's hearing room (465 South King Street, #B-3, Kekuanaoa Building, Honolulu). Unless approved by the commission in advance of the hearing, each of the Parties shall appear and participate in the hearing.

3. The commission will accept any replies to the motions for reconsideration, provided that such replies are filed with the commission by July 18, 2008. Unless ordered otherwise, the commission will not accept any filings by the movants that respond to any replies, or which otherwise supplements the information set forth in the motions for reconsideration.

\textsuperscript{6}See Commission's correspondence, dated July 11, 2008.
DONE at Honolulu, Hawaii       JUL 18 2008

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: Carlito P. Caliboso, Chairman
    ___________________________

By: John E. Cole, Commissioner
    ___________________________

By: Leslie H. Kondo, Commissioner
    ___________________________

APPROVED AS TO FORM:

Michael Azama
Commission Counsel

2006-0498.laa
CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

RANDALL J. HEE, P.E.
PRESIDENT AND CHIEF EXECUTIVE OFFICER
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe’e Street, Suite 1
Lihue, HI 96766-2000

TIMOTHY BLUME
MICHAEL YAMANE
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe’e Street, Suite 1
Lihue, HI 96766-2000

KENT D. MORIHARA, ESQ.
KRIS N. NAKAGAWA, ESQ.
RHONDA L. CHING, ESQ.
MORIHARA LAU & FONG LLP
841 Bishop Street, Suite 400
Honolulu, HI 96813

Counsel for KIUC

WARREN S. BOLLMEIER II
PRESIDENT
HAWAI’I RENEWABLE ENERGY ALLIANCE
46-040 Konane Place, #3816
Kaneohe, HI 96744
GLENN SATO, ENERGY COORDINATOR  
OFFICE OF ECONOMIC DEVELOPMENT  
COUNTY OF KAUA'I  
4444 Rice Street, Suite 220  
Lihue, HI 96766

CHRISTIANE L. NAKEA-TRESLER, ESQ.  
JAMES K. TAGUPA, ESQ.  
OFFICE OF THE COUNTY ATTORNEY  
COUNTY OF KAUA'I  
4444 Rice Street, Suite 220  
Lihue, HI 96766-1300

Counsel for the COUNTY OF KAUA'I

RENE MC WADE  
HAWAII HEALTH SYSTEMS CORPORATION  
3675 Kilauea Avenue  
Honolulu, HI 96816

WILLIAM W. MILKS, ESQ.  
LAW OFFICE OF WILLIAM W. MILKS  
American Savings Bank Tower  
Suite 977, 1001 Bishop Street  
Honolulu, HI 96813

Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH SYSTEMS CORPORATION

BEN DAVIDIAN, ESQ.  
LAW OFFICES OF BEN DAVIDIAN  
P. O. Box 2642  
Fair Oaks, CA 95628

Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH SYSTEMS CORPORATION
JOE ROBILLARD
DIRECTOR OF ENGINEERING
KAUAI MARRIOTT RESORT & BEACH CLUB
3610 Rice Street
Lihue, HI    96766

THOMAS C. GORAK, ESQ.
GORAK & BAY, L.L.C.
1161 Ikena Circle
Honolulu, HI    96821

Counsel for MARRIOTT HOTEL SERVICES, INC., on behalf of
KAUAI MARRIOTT RESORT & BEACH CLUB