

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
KAUAI ISLAND UTILITY COOPERATIVE) DOCKET NO. 2006-0165
)
Regarding Integrated Resource)
Planning.)
_____)

ORDER DECLINING TO ADOPT PURPA STANDARDS
ON FUEL DIVERSITY AND FOSSIL FUEL GENERATION EFFICIENCY

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

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FILED

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KAUAI ISLAND UTILITY COOPERATIVE)	Docket No. 2006-0165
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ORDER DECLINING TO ADOPT PURPA STANDARDS
ON FUEL DIVERSITY AND FOSSIL FUEL GENERATION EFFICIENCY

By this Order, the commission declines to adopt, for KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), the federal standards set forth on Sections 111(d)(12) and 111(d)(13) of the Public Utility Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005, governing fuel diversity and fossil fuel generation efficiency.

I.

Background

The commission initiated this proceeding¹ to examine KIUC's integrated resource planning ("IRP") efforts in its next IRP cycle (i.e., IRP-3) in accordance with Section III.C.1 of the IRP Framework, as modified.² The sole parties to this proceeding

¹See Order No. 22542, filed on June 20, 2006.

²The IRP Framework was established in Decision and Order No. 11523, filed on March 12, 1992, as amended by Decision and Order No 11630, filed on May 22, 1992, in Docket No. 6617. The framework was further modified by Decision and Order No. 22490, filed on May 26, 2006, in Docket No. 05-0075.

are KIUC and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate").³ KIUC and the Consumer Advocate are hereafter collectively referred to as the "Parties."

Sections 111(d)(12), 111(d)(13), and 112(b)(3)(A) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005 ("EPACT"), requires the commission to commence consideration of the following matters governing fuel diversity and fossil fuel generation efficiency:⁴

(12) FUEL SOURCES - Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

(13) FOSSIL FUEL GENERATION EFFICIENCY - Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

16 U.S.C. § 2621(d)(12) - (13). See also 16 U.S.C. § 2622(b)(3)(A).

³The Consumer Advocate is an ex-officio party to all proceedings before the commission. See Hawaii Revised Statutes § 269-51; Hawaii Administrative Rules § 6-61-62.

⁴Section 102(a) of PURPA states:

This chapter applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

16 U.S.C. § 2612(a). It is the commission's understanding that KIUC's total sales of electrical energy do not exceed 500 million kilowatt-hours. However, given the nature of this docket and the public policy considerations at issue, the commission will also consider whether KIUC should be required to adopt the standards described herein.

Section 112(b)(3)(B) of PURPA, as amended by EPACT, requires the commission to complete its consideration and make its determination regarding each standard established by paragraphs (11) through (13) of Section 111(d), of PURPA, no later than three years after the enactment of the law (i.e., by August 8, 2008).⁵

To address the above, by letter dated August 9, 2006, the commission requested that the Parties provide their position, if any, on whether the commission should adopt, modify, or decline to adopt in whole or part, those standards, as well as any procedural comments and suggestions as to how the issues should be considered in this docket or in a separate proceeding.

By letter dated January 19, 2007, KIUC submitted its initial Statement of Position stating that, among other things, it believes that it is appropriate to consider the federal standards regarding fuel diversity and fossil fuel generation in this proceeding ("Initial Position"). Subsequently, however, due to recent developments since the submission of its Initial Position, its position on PURPA matters in other proceedings,⁶ and timing considerations,⁷ KIUC filed an

⁵See 16 U.S.C. § 2622(b)(3)(B).

⁶According to KIUC, in Docket No. 2006-0498, the parties to that proceeding including KIUC submitted a joint letter on June 28, 2007, recommending that the commission decline to adopt the PURPA interconnection standards as amended by the EPACT.

⁷KIUC represents that at the time that it filed its Initial Statement, KIUC was scheduled to file its IRP-3 for review on or before June 20, 2007. However, due to "key and new developments" impacting KIUC in late 2007, KIUC requested

Amended and Restated Statement of Position for the commission's review and consideration on July 9, 2008 ("Amended Statement").

On July 10, 2008, the Consumer Advocate submitted a letter in response to KIUC's Amended Statement ("Response").

II.

Discussion

In its Amended Statement, KIUC states that it acknowledges the importance of achieving a diversified fuel mix and recognizes the potential benefits of adopting the fossil fuel generation efficiency standard to optimize the efficiency of electric utility fossil fuel generation facilities. However, at this juncture, KIUC contends that the two issues as envisioned by the PURPA standards are already considered and included in its IRP efforts, the subject of this proceeding. Moreover, it agrees with Hawaii Electric Light Company's ("HELCO") statement "in Docket No. 04-0046 that one size fits all federal standards are not the optimal method to achieve objectives such as energy efficiency and implementation of renewable resources. Rather, utility specific objectives that are developed and refined in periodic [IRP] processes are preferable."⁸ For these reasons, KIUC contends that it is unnecessary or infeasible for the commission to adopt these federal standards at this time.

an extension of time to file its IRP-3 until December 20, 2008, which the commission approved.

⁸See KIUC's Amended Statement at 1-2 (internal quotes and references omitted).

Thus, KIUC recommends that the commission decline to adopt these federal standards in their entirety.

In its Response, the Consumer Advocate also recommends that the commission decline to adopt the federal standards regarding fuel diversity and fossil fuel generation efficiency in their entirety for KIUC. The Consumer Advocate states that this position is consistent with the commission's determination for HELCO in HELCO's IRP proceeding.⁹ According to the Consumer Advocate, the commission agreed in HELCO's IRP proceeding that "adoption of these two federal standards set forth by PURPA, as amended by the Energy Policy Act of 2005, is not necessary for Hawaii's electric utilities because such standards can be considered in the integrated resource planning process of each utility."¹⁰ Moreover, upon review of KIUC's Draft IRP-3, submitted on December 17, 2007, in this proceeding, the Consumer Advocate contends that the draft plan addresses the utility's ability to utilize different types of fuel and explores the feasibility of increasing energy production by commercially available indigenous and renewable resources. Additionally, according to the Consumer Advocate, KIUC's Draft IRP-3 provides detailed quantitative assessments of the consumption of fuel (both current and projected over a 20-year planning horizon) based on the alternatives under

⁹See In re Hawaii Electric Light Company, Inc., Docket No. 04-0046, Decision and Order No. 23977, filed on January 24, 2008 ("Decision and Order No. 23977").

¹⁰See Consumer Advocate's Response at 3.

consideration in the development of the IRP. Thus, the Consumer Advocate contends that "it is evident from the information contained in KIUC's Draft IRP-3 that the IRP process is the appropriate mechanism to consider the two federal standards regarding fuel diversity and mix. Therefore, the Commission need not adopt the standards in order for the standards to be considered by KIUC."¹¹

Here, the commission concurs with KIUC and the Consumer Advocate that adoption of the federal standards on fuel diversity and fossil fuel generation efficiency is, at this time, unnecessary. Under the circumstances, the consideration of these federal standards as part of KIUC's IRP-3, which is currently scheduled to be filed on December 20, 2008,¹² appears to be appropriate. Accordingly, as the Consumer Advocate states, it appears that adoption of these standards need not occur, as KIUC is already considering them as part of its IRP process.

In addition, KIUC's position is consistent with HELCO's position, and the commission's decision, on these same federal standards in the HELCO IRP proceeding. In that proceeding, HELCO stated a preference to develop and refine specific utility objectives in IRP proceedings as opposed to

¹¹Id.

¹²See Order No. 23944, filed on December 28, 2007.

"one size fits all" federal standards.¹³ This position also appears to be in accord with KIUC's statement set forth in Docket No. 2006-0498, wherein KIUC joined the other parties to that proceeding to recommend that the commission decline to adopt the PURPA interconnection standards.¹⁴

Based on the foregoing, the commission declines to adopt, for KIUC, the federal standards on fuel diversity and fossil fuel generation efficiency.

III.

Order

THE COMMISSION ORDERS:

The commission declines to adopt, for KIUC, the PURPA standards on fuel diversity and fossil fuel generation efficiency.

¹³Related to this, HELCO further stated that "[i]n this manner, a utility's specific circumstances (such as its specific existing generation mix and opportunities to acquire renewable resources through mechanisms such as competitive bidding) and State requirements and policies (such as standards mandated in the Renewable Portfolio Standards law, policies established in HRS § 226-18, and goals and objectives mandated by the [c]ommission in the IRP Framework and in proceedings such as the pending Energy Efficiency Docket) can be taken into consideration." See Decision and Order No. 23977 at 64; Consumer Advocate's Response at 1.


¹⁴See KIUC's Amended Statement, transmittal letter at 1 n.1.

DONE at Honolulu, Hawaii JUL 21 2008.

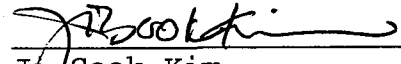
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


J. Sook Kim
Commission Counsel

2006-0165.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:

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