

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
PUBLIC UTILITIES COMMISSION )  
Instituting a Proceeding to )  
Investigate the Implementation )  
Of Feed-in Tariffs. )  
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DOCKET NO. 2008-0273

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

ORDER INITIATING INVESTIGATION

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

PUBLIC UTILITIES  
COMMISSION

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OF THE STATE OF HAWAII

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Order Initiating Investigation

By this Order, the commission initiates an investigation to examine the implementation of feed-in tariffs in the service territories of HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), and HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO").<sup>1</sup>

I.

Background

On October 20, 2008, the Governor of the State of Hawaii, the State of Hawaii Department of Business, Economic Development and Tourism, the State of Hawaii Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate"), and the HECO Companies entered into a comprehensive agreement designed to move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward "indigenously produced

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<sup>1</sup>HECO, MECO, and HELCO are collectively referred to as "HECO Companies" or "Hawaiian Electric Companies."

renewable energy and an ethic of energy efficiency."<sup>2</sup> A product of the Hawaii Clean Energy Initiative,<sup>3</sup> the Agreement is a commitment on the part of the State and the HECO Companies to accelerate the addition of new, clean resources on all islands; to transition the HECO Companies away from a model that encourages increased electricity usage; and to provide measures to assist consumers in reducing their electricity bills.

Included in the Agreement is a commitment by the HECO Companies to implement feed-in tariffs "to dramatically accelerate the addition of renewable energy from new sources" and to "encourage increased development of alternative energy projects."<sup>4</sup> "A feed-in[] tariff is [a] set of standardized, published purchased power rates, including terms and conditions, which the utility will pay for each type of renewable energy resource based on project size fed to the grid."<sup>5</sup>

As stated in the Agreement:

[F]eed-in tariffs are beneficial for the development of renewable energy, as they provide predictability and certainty with respect to the future prices to be paid for renewable energy and

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<sup>2</sup>Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies ("Agreement"), at 1.

<sup>3</sup>On January 31, 2008, the State of Hawaii and the U.S. Department of Energy entered into a Memorandum of Understanding designed to establish a partnership, called the Hawaii Clean Energy Initiative. The partnership aims to have 70% of all of Hawaii's energy needs generated by renewable energy sources by 2030.

<sup>4</sup>Agreement, Summary, at 3.

<sup>5</sup>Agreement, Summary, at 3.

how much of such energy the utility will acquire. The parties agree that feed-in tariffs should be designed to cover the renewable energy producer's costs of energy production plus some reasonable profit, and that the benefits to Hawaii from using a feed-in tariff to accelerate renewable energy development (from lowering oil imports, increasing energy security, and increasing both jobs and tax base for the state), exceed the potential incremental rents paid to the renewable providers in the short term.

In their Agreement, the HECO Companies and the Consumer Advocate request that, by March 2009, the commission:

conclude an investigative proceeding to determine the best design for feed-in tariffs that support the Hawaii Clean Energy Initiative, considering such factors as categories of renewables, sizes or locational limits for projects qualifying for the feed-in tariff, how to manage and identify project development milestones relative to the queue of projects wishing to take the feed-in tariff terms, what annual limits should apply to the amount of renewables allowed to take the feed-in tariff terms, what factors to incorporate into the prices set for feed-in tariff payments, and the terms, conditions, and duration of the feed-in tariff that shall be offered to all qualifying renewable projects, and the continuing role of the Competitive Bidding Framework.<sup>7</sup>

The HECO Companies and the Consumer Advocate also agreed that they would request that the commission "adopt a set of feed-in tariffs and prices that implement the conclusions of the feed-in tariff investigation" by July 2009.<sup>8</sup>

Given the HECO Companies and the Consumer Advocate's agreements, as set forth above, specifically the time frames agreed upon, the commission finds it appropriate to institute a proceeding at this time to address the issues related to

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<sup>6</sup>Agreement, at 16-17.

<sup>7</sup>Agreement, at 17.

<sup>8</sup>Agreement, at 17.

implementation of feed-in tariffs in the HECO Companies' service territories.

In addition, to expedite the process, the commission will direct the HECO Companies and the Consumer Advocate to submit to the commission a joint proposal on feed-in tariffs that addresses all of the factors identified in their Agreement within sixty days of the date of this Order. The joint proposal should take into account the considerations and criteria set forth in a scoping paper on feed-in tariffs that will be issued by the commission in this docket.

## II.

### Discussion

#### A.

#### Investigative Authority

HRS § 269-7 states, in relevant part:

- (a) The public utilities commission and each commissioner shall have the power to examine the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, the value of its physical property, the issuance by it of stocks and bonds, and the disposition of the proceeds thereof, the amount and disposition of its income, and all its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable state and federal laws and with the provisions of its franchise, charter, and articles of association, if

any, its classifications, rules, regulations, practices, and service, and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations . . .

- . . . . .
- (c) Any investigation may be made by the commission on its own motion, and shall be made when requested by the public utility to be investigated, or by any person upon a sworn written complaint to the commission, setting forth any prima facie cause of complaint. A majority of the commission shall constitute a quorum.

HRS § 269-7(a) and (c) (emphasis added). Similarly, in HRS § 269-6, the commission is vested with "general supervision . . . over all public utilities."<sup>9</sup>

In addition to the commission's statutory authority described above, the commission notes that the Legislature recently enacted Act 177, Session Laws Hawaii 2007, codified as HRS § 269-6(b), which authorizes the commission "to consider the need for increased renewable energy use in exercising its authority and duties."

B.

Named Parties

Since they were signatories to the Agreement, and will be impacted by the outcome of this investigation, the commission

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<sup>9</sup>Commission investigatory authority is also set forth in HRS § 269-15 and HAR § 6-61-71.

names as parties to this proceeding: HECO, HELCO, MECO, and the Consumer Advocate<sup>10</sup> (collectively, the "Parties"). Their involvement and participation in this proceeding will assist the commission in developing a sound record for its investigation.<sup>11</sup>

C.

Procedural Matters

Any interested individual, entity, agency, or community or business organization may file a motion to intervene or participate without intervention in this docket. Motions to intervene or participate without intervention must comply with all applicable rules of HAR Chapter 6-61. Any individual, entity, agency, or community or business organization allowed to intervene or participate without intervention in this proceeding should be cognizant of the HECO Companies and the Consumer Advocate's request that the commission conclude this investigation by March 2009. Any intervenor or participant, moreover, will not be allowed to broaden the issues or unduly delay the proceeding.

If a protective order to govern the treatment of certain documents is desired, the Parties (and intervenors and

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<sup>10</sup>The Consumer Advocate is statutorily mandated to represent, protect, and advance the interests of all consumers of utility service and is an ex officio party to any proceeding before the commission. See HRS § 269-51; HAR § 6-61-62.

<sup>11</sup>In addition, the commission will provide a copy of this Order to KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), who while not a signatory to the Agreement, does provide electric utility service in the State.

participants, if any) shall file a stipulated protective order for the commission's review and approval within forty-five days of the date of this Order.<sup>12</sup> If the Parties (and intervenors and participants, if any) are unable to stipulate, each party or participant shall file proposed protective orders for the commission's review and consideration within the forty-five day filing deadline.

Within forty-five days from the date of this Order, the Parties (and intervenors and participants, if any) shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The stipulated procedural schedule that the Parties submit to the commission should, to the extent possible, allow the commission to complete its deliberations and issue a decision by March 31, 2009. If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file proposed orders for the commission's review and consideration within the same deadline.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. An investigative proceeding is initiated to examine the implementation of feed-in tariffs in the HECO Companies' service territories.

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<sup>12</sup>The commission intends to rule on any motions for intervention prior to the deadline to file a protective order, i.e., within forty-five days from the date of this Order.

2. The HECO Companies and the Consumer Advocate shall submit to the commission a joint proposal on feed-in tariffs that addresses all of the factors identified in their Agreement within sixty days of the date of this Order. The joint proposal should take into account the considerations and criteria set forth in a scoping paper on feed-in tariffs that will be issued by the commission in this docket.

3. HECO, HELCO, MECO, and the Consumer Advocate are parties to this investigative docket.

4. A motion to intervene or participate without intervention must be filed not later than twenty days from the date of this Order, pursuant to HAR § 6-61-57(3)(B). Motions to intervene or participate without intervention must comply with HAR Chapter 6-61, Rules of Practice and Procedure Before the Public Utilities Commission.

5. If a protective order to govern the treatment of certain documents is desired, the Parties (and intervenors and participants, if any) shall file a stipulated protective order for the commission's review and approval within forty-five days of the date of this Order. If they are unable to stipulate, each party, (intervenor or participant, if any) shall file a proposed protective order for the commission's review and consideration within the same deadline.

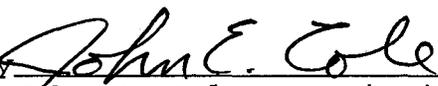
6. Within forty-five days of the date of this Order, the Parties (and intervenors and participants, if any) shall

file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The Parties' stipulated procedural schedule should, to the extent possible, allow the commission to complete its deliberations and issue a decision by March 31, 2009. If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file a proposed order for the commission's review and consideration within the same deadline.

DONE at Honolulu, Hawaii OCT 24 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:

  
Stacey Kawasaki Djou  
Commission Counsel  
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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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