

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Issues and)
Requirements of Adopting or)
Establishing Standards for Solar)
Water Heater Systems as Mandated)
by Act 204, Session Laws of)
Hawaii (2008).)
_____)

DOCKET NO. 2008-0249

ORDER GRANTING INTERVENTION AND PARTICIPATION

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

PUBLIC UTILITIES
COMMISSION

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FILED

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ORDER GRANTING INTERVENTION AND PARTICIPATION

By this Order, the commission: (1) grants HAWAII SOLAR ENERGY ASSOCIATION's ("HSEA") Motion to Intervene and Become a Party, and (2) grants HONEYWELL INTERNATIONAL INC.'s ("Honeywell") Motion to Participate without Intervention in this proceeding.

I.

Background

On September 26, 2008, the commission issued its Order Initiating Investigation to Adopt or Establish Standards for Solar Water Heater Systems ("Initiating Order") to examine the issues and requirements of adopting or establishing standards for solar water heater systems as mandated by Act 204, Session Laws of Hawaii (2008) ("Act 204"), Section 3. The investigation was initiated pursuant to Act 204,

Hawaii Revised Statutes ("HRS") §§ 269-6 and 269-7, and Hawaii Administrative Rules ("HAR") § 6-61-71.

In the Initiating Order, the commission, sua sponte, designated HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"); HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"); MAUI ELECTRIC COMPANY, LIMITED ("MECO"); KAUAI ISLAND UTILITY COOPERATIVE; and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate")¹ as parties to this docket. Additionally, the commission invited any individual, entity, or organization desiring to intervene as a party or to participate without intervention in this proceeding to file a motion to intervene or participate not later than twenty days from the date of the order, in compliance with commission requirements and rules.

On October 14, 2008, HSEA submitted a Motion to Intervene and Become a Party ("HSEA's Motion") to this proceeding. On October 16, 2008, Honeywell filed a Motion to Participate without Intervention ("Honeywell's Motion") in this proceeding.

By letters dated and filed on October 20, 2008, and October 21, 2008, HECO informed the commission that it does not oppose the granting of intervenor status to HSEA and participant status to Honeywell, respectively, provided that HSEA and Honeywell do not broaden the issues or delay the proceeding.

¹The 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 and HAR § 6-61-62.

II.

Intervention and Participation

HAR § 6-61-55 sets forth the requirements for intervention in commission proceedings. It states, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.
- (b) The motion shall make reference to:
 - (1) The nature of the applicant's statutory or other right to participate in the hearing;
 - (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
 - (3) The effect of the pending order as to the applicant's interest;
 - (4) The other means available whereby the applicant's interest may be protected;
 - (5) The extent to which the applicant's interest will not be represented by existing parties;
 - (6) The extent to which the applicant's participation can assist in the development of a sound record;
 - (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
 - (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and

- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(a) and (b). HAR § 6-61-55(d) further states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented."²

In addition, HAR § 6-61-56 sets forth the requirements for participation without intervention in commission proceedings. Similar to the requirements for intervention in HAR § 6-61-55, HAR § 6-61-56 provides in relevant part:

- (b) A person who has a limited interest in a proceeding may make an application to participate without intervention by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57.
- (c) The motion shall provide:
- (1) A clear and concise statement of the direct and substantial interest of the applicant;
 - (2) The applicant's position regarding the matter in controversy;
 - (3) The extent to which the participation will not broaden the issues or delay the proceeding;
 - (4) The extent to which the applicant's interest will not be represented by existing parties;

²See also In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975) (intervention "is not a matter of right but a matter resting within the sound discretion of the commission").

- (5) A statement of the expertise, knowledge or experience the applicant possesses with regard to the matter in controversy;
- (6) Whether the applicant can aid the commission by submitting an affirmative case; and
- (7) A statement of the relief desired.

HAR § 6-61-56(b) and (c). Moreover, regarding the extent to which a participant may be involved in a proceeding, HAR § 6-61-56(a) provides:

The commission may permit participation without intervention. A person or entity in whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

HAR § 6-61-56(a).

A.

HSEA's Motion

In its motion, HSEA states that it is a non-profit professional trade association, incorporated in the State of Hawaii ("State") since 1977, organized for the purpose of promoting the utilization and commercialization of renewable energy resources, including solar water heating ("SWH") and solar electricity in the State; advancing consumer education and understanding of solar energy technologies; and developing sound trade and technical practices among its member companies. According to HSEA, it currently has thirty member companies

who are active in the SWH market and contribute an estimated ninety percent of the sales and installations of SWH systems in the State. Thus, it contends that HSEA "members have a strong and vested interest in the issues, optimal development and successful establishment of standards for" SWH systems.³

In particular, HSEA contends that this proceeding can impact the business interest of solar industry participants either positively or negatively. According to HSEA, potential negative impacts can result if, among other things, inappropriate or inadequate standards and specifications, and material and components are adopted and installation quality is not verified. HSEA asserts that negative impacts could undermine builder and homebuyer confidence leading to builder request for a variance as provided for in Act 204, and that any loss of confidence could adversely impact existing homeowners' decisions to convert to SWH.

Additionally, HSEA contends that there is no other means for it to protect its interests and that none of the existing parties to this proceeding "have interests, commercial or otherwise, that are entirely coincident with those of HSEA members."⁴ According to HSEA, it is uniquely qualified to assist in the development of a sound record since its members have expertise in marketing, selling, engineering, installing, operating, and servicing SWH systems. In addition, HSEA states that its members are knowledgeable and have experience in

³See HSEA's Motion at 3.

⁴Id.

State energy policy and planning; energy economics; demand side management structure, design, and implementation; and commission contested case proceedings. HSEA notes that its members participate directly in the development and periodic updates to HECO's "Residential Solar Water Heating System Standards and Specifications" and that one of its members is currently an officer and director of the Solar Rating and Certification Corporation ("SRCC") and that two of its members were former directors of the SRCC.

Moreover, HSEA asserts that its interests are wholly consistent with that of the general public since its interest is to ensure that SWH systems in the State are properly designed and installed. Furthermore, it states that its goal is to ensure that the established standards and specifications are meaningful and appropriate, and that a quality assurance component is included.

Upon review, the commission finds that HSEA's participation in this proceeding can assist the commission in developing a sound record, and that HSEA's involvement will not unduly broaden the issues. Specifically, among other things, the commission finds that HSEA is uniquely situated to assist the commission in establishing SWH standards under Act 204 since HSEA members are directly involved in the SWH industry and in the sale and installation of SWH systems. Moreover, it appears that HSEA member companies have a strong vested interest in this proceeding. Based on the foregoing, the commission concludes that HSEA should be granted intervention.

B.

Honeywell's Motion

In its motion, Honeywell states that its Utility Solutions division has been operating in the State since 1977 "bringing turnkey energy and water efficiency program management to utility companies nationwide."⁵ Honeywell contends that since 1996, it administers the energy efficiency programs for HECO, HELCO, and MECO and that it is currently contracted by HECO to administer the Residential Efficient Water Heating ("REWH") program. Specifically, Honeywell asserts that it manages the rebate process for the REWH program by working with solar contractors and conducting inspections of all installed systems. Moreover, as a registered bidder for the Program Administrator of the Hawaii Energy Efficiency Programs, Honeywell states that "adoption of solar water heater system standards at the State level for the new construction sector may also impact the existing or retrofit market, which is currently one of the programs that will transition to the Administrator."⁶

Honeywell states that it is interested in working with other parties and participants to address the issues raised in the docket and that it intends to provide "meaningful insight" based on its years of conducting SWH inspections utilizing HECO's current standards and specifications. Among other things, Honeywell states that none of the current parties to the proceeding can adequately represent its interests and

⁵See Honeywell's Motion at 1.

⁶Id. at 2.

that its participation in this proceeding will not broaden the issues or delay the proceeding. Further, Honeywell asserts that its "direct experience in working with the solar contractors who install the solar water heating systems will add on the ground working expertise with implementing a set of standards for solar water heater installations."⁷ According to Honeywell, the feasibility of the new proposals can be benchmarked against its field inspection experience.

Here, the commission finds that Honeywell's Motion sufficiently satisfies the requirements of HAR § 6-61-56. In particular, the commission finds that Honeywell's involvement in this proceeding can aid the commission in developing a sound record and that Honeywell appears to have a direct interest in the matters of this docket. In particular, it appears that Honeywell's numerous years of experience directly working with solar contractors and inspecting the installation of SWH systems can provide the commission with unique insight into the needs and requirements of establishing or adopting standards for SWH systems. Moreover, it does not appear that Honeywell's participation in this proceeding will broaden the issues or delay the proceeding. Based on the foregoing, the commission concludes that Honeywell should be granted participant status in this docket. Honeywell's participation in this proceeding shall, unless otherwise ordered by the commission, be limited to receiving all filings, responding to information requests, and filing a final position statement in this proceeding.

⁷Id. at 3 (internal quotes omitted).

C.

Conditions

As the commission is statutorily required to "adopt or establish" standards for SWH systems no later than July 1, 2009,⁸ it will preclude any effort by HSEA and Honeywell to unreasonably broaden the pertinent issues or unduly delay the proceeding. Similarly, the commission will reconsider HSEA and Honeywell's participation in this docket if, at any time during the course of this proceeding, the commission determines that HSEA or Honeywell is unreasonably broadening the pertinent issues or unduly delaying the proceeding.

III.

Orders

THE COMMISSION ORDERS:

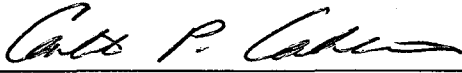
1. HSEA's Motion to Intervene and Become a Party filed on October 14, 2008, is granted.

2. Honeywell's Motion to Participate without Intervention filed on October 16, 2008, is granted. Honeywell's participation in this proceeding shall, unless otherwise ordered by the commission, be limited to receiving all filings, responding to information requests, and filing a final position statement in this proceeding.


⁸See Act 204, Section 3.

DONE at Honolulu, Hawaii DEC 19 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:


Ji Sook Kim
Commission Counsel

2008-0249.SWH Standards.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

JAY M. IGNACIO
PRESIDENT
HAWAII ELECTRIC LIGHT COMPANY, INC.
P.O. Box 1027
Hilo, HI 96721-1027

EDWARD L. REINHARDT
PRESIDENT
MAUI ELECTRIC COMPANY, LIMITED
P.O. Box 398
Kahului, HI 96733-6898

DEAN MATSUURA
MANAGER
REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, HI 96840-0001

RANDALL HEE
PRESIDENT AND CHIEF EXECUTIVE OFFICER
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e STREET
Lihue, HI 96766

MARK DUDA
PRESIDENT
HAWAII SOLAR ENERGY ASSOCIATION
c/o Suntech Hawaii
P.O. Box 1462
Kailua, HI 96734

YVETTE MASKREY
DISTRICT MANAGER
HONEYWELL INTERNATIONAL INC.
220 S. King Street, Suite 1460
Honolulu, HI 96813