

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.)
MAUI ELECTRIC COMPANY, LIMITED)

For Approval of Waivers from the)
Competitive Bidding Framework.)

DOCKET NO. 2008-0061

ORDER NO. 24182

Filed May 7, 2008
At 12 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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2008 MAY -3 A 9:53
DIV. OF PUBLIC UTILITIES
DEPT. OF LAND AND
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STATE OF HAWAII

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KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii

Karen Higashi.

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¹Motion to Intervene; and Certificate of Service, filed on April 22, 2008 (collectively, "Motion to Intervene"). The Parties are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED (collectively, the "HECO Companies"), Na Makani, and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

Bidding as a mechanism for acquiring or building new energy generation in the State ("CB Framework").²

On April 3, 2008, the HECO Companies filed an Application requesting waivers from the CB Framework for three independent power producer projects, as follows: (1) Na Makani, a 4.5 megawatt ("MW") wind energy/hydroelectric hybrid project, located in the Kahua Ranch area on the island of Hawaii (the "Na Makani Project"); (2) Waikoloa Wind Power LLC, a 10.25 MW wind farm/battery energy storage project, located near the Waikoloa area on the island of Hawaii; and (3) Bio Energy Systems of Hawaii, Inc., a 5.5 MW firm capacity biomass project, located on the island of Maui.³ The HECO Companies make their request for waivers pursuant to Part II.A.3 and 4 of the CB Framework.

On April 22, 2008, Na Makani filed its Motion to Intervene. No opposition to the Motion to Intervene was filed by the HECO Companies or the Consumer Advocate.

Na Makani seeks to intervene as the developer, owner, and operator of the Na Makani Project, asserting that it has a direct and substantial interest in this proceeding. Na Makani notes that: (1) on or about October 6, 2006, it submitted its offer to sell energy to HELCO; and (2) "Na Makani relied on the timely submissions of its [offer] and on the exceptions to the Framework for Competitive Bidding dated December 8, 2006,

²Decision and Order No. 23121, filed on December 8, 2006, with the Framework for Competitive Bidding, dated December 8, 2006, attached.

³Application; Verification; Exhibits A - E; and Certificate of Service, filed on April 3, 2008.

contained in Part II.A thereof, adopted by the Commission in [Decision and] Order No. 23121, and consequently expended substantial time and money in connection with the Project[.]"⁴ Na Makani represents that it "will provide the resources, including professional expertise and time, necessary for effective representation, and to assist in the development of a sound evidentiary record."⁵ Lastly, Na Makani states that it supports the relief requested by the HECO Companies in this proceeding.

II.

Discussion

The standard for granting intervention is set forth in HAR § 6-61-55, which requires the movant to state the facts and reasons for the proposed intervention, and its position and interest thereto. HAR § 6-61-55 provides:

§6-61-55 Intervention. (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;

⁴Motion to Intervene, at 4.

⁵Motion to Intervene, at 5.

- (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.

(c) The motion shall be filed and served by the applicant in accordance with sections 6-61-21 and 6-61-57.

(d) Intervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented.

HAR § 6-61-55. Moreover, intervention "is not a matter of right but a matter resting within the sound discretion of the commission." In re Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975).

Here, the commission finds that Na Makani, as the developer, owner, and operator of the Na Makani Project, has a direct interest, and its participation herein should assist the commission in developing a sound record, without unreasonably broadening said issues or unduly delaying this proceeding. Accordingly, the commission grants Na Makani's Motion to Intervene, limited to the Na Makani Project.

The commission cautions that Na Makani's participation as an intervenor in this docket will be limited to the Na Makani Project. The commission will preclude any effort by Na Makani to

unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider Na Makani's participation in this docket if, at any time, during the course of this proceeding, the commission determines that it is unreasonably broadening the pertinent issues raised in this docket or is unduly delaying the proceeding. In addition, the commission will require Na Makani to meaningfully participate in the docket, and will reconsider allowing Na Makani to intervene if it fails to follow commission rules, contribute to the development of a sound record, or otherwise meaningfully participate in this proceeding.

The Parties shall submit for the commission's review and consideration a stipulated procedural schedule that identifies the agreed-upon dates for the Parties to file their respective position statements, provided that if the Parties are unable to agree on a joint procedural schedule, each party shall submit its own proposal by the same date.

III.

Orders

THE COMMISSION ORDERS:

1. The Motion to Intervene of Na Makani, filed on April 22, 2008, is granted, limited to the Na Makani Project, and provided that Na Makani shall not unreasonably broaden the issues, or unduly delay the proceeding, and it follows all applicable rules, orders, and other requirements imposed by the commission.

2. By June 12, 2008, the Parties shall submit a stipulated procedural schedule that identifies the agreed-upon dates for the Parties to file their respective position statements, provided that if the Parties are unable to agree on a joint procedural schedule, each party shall submit its own proposal by the same date.

DONE at Honolulu, Hawaii MAY - 7 2008.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

2008-0061.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24182 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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Karen Higashi

DATED: **MAY - 7 2008**