

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding Under)
Hawaii's Net Energy Metering)
Law, Hawaii Revised Statutes)
§§ 269-101 - 269-111, to)
Investigate Increasing: (1) the)
Maximum Capacity of Eligible)
Customer-Generators to More Than)
Fifty Kilowatts; and (2) the)
Total Rated Generating Capacity)
Produced by Eligible Customer-)
Generators to an Amount Above)
0.5 Percent of Peak Demand)
_____)

DOCKET NO. 2006-0084

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

ORDER GRANTING MOTION FOR RECONSIDERATION OF PORTIONS
OF DECISION AND ORDER NO. 24089, FILED ON MARCH 13, 2008

FILED

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PUBLIC UTILITIES
COMMISSION

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ORDER GRANTING MOTION FOR RECONSIDERATION OF PORTIONS
OF DECISION AND ORDER NO. 24089, FILED ON MARCH 13, 2008

By this Order, the commission grants the Motion for Reconsideration of Portions of Decision and Order No. 24089, filed on March 13, 2008 ("Decision and Order No. 24089"), which was filed by KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") on May 12, 2008 ("Motion").¹

¹The parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, "HECO Companies"), the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), KIUC, HAWAII RENEWABLE ENERGY ALLIANCE, and HAWAII SOLAR ENERGY ASSOCIATION (collectively, "Parties"). The commission also allowed ZERO EMISSIONS LEASING LLC ("Participant") to participate in this docket.

I.

Background

A.

Net Energy Metering Law

Hawaii's Net Energy Metering Law, codified as Hawaii Revised Statutes ("HRS") §§ 269-101 to 269-111 ("Net Energy Metering Law"), which was enacted in 2001, allows residential and commercial customers of an electric utility (including a government entity) who own and operate eligible renewable energy generators to use "net energy metering" or "NEM" to measure electricity usage for billing purposes. As defined by HRS § 269-101, "net energy metering" means "measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a monthly billing period[.]" In essence, eligible customer-generators who use net energy metering are billed only on the net kilowatt-hours of electricity they use.

The Net Energy Metering Law specifies that the maximum generating capacity per customer must be no more than fifty kilowatts ("kW").² The law, however, expressly authorizes the commission to increase the maximum generating capacity for customers. In addition, the Net Energy Metering Law provides a cap on the total power producing capacity of eligible customer-generators, which is currently set in the statute at

²See HRS § 269-101.5.

0.5 percent of an electric utility's peak demand.³ As with the maximum generating capacity of individual customers established in HRS § 269-101.5, the Net Energy Metering Law authorizes the commission to "modify, by rule or order, the total rated generating capacity produced by eligible customer-generators[.]"⁴

B.

Initiation of this Docket

By Order No. 22380, filed on April 10, 2006, the commission initiated this investigation to determine whether, and to what extent, the commission should increase: (1) the maximum capacity of eligible customer-generators to more than 50 kW; and (2) the total rated generating capacity produced by eligible customer-generators to an amount above 0.5 percent of an electric utility's system peak demand, under Hawaii's Net Energy Metering Law.

C.

Decision and Order No. 24089

In Decision and Order No. 24089, the commission approved two stipulations to increase the NEM limits that were separately filed on September 17, 2007, by the HECO Companies and KIUC. In approving the stipulation affecting KIUC, the commission approved, in sum, the following:

³See HRS §§ 269-102, 269-104.

⁴HRS § 269-102.

- The maximum size of KIUC's eligible customer-generators shall remain at 50 kW;
- An increase in KIUC's total rated generating capacity limit from 0.5% to 1.0% of KIUC's peak demand;
- The 1.0% of KIUC's peak demand shall be allocated as follows: (a) 50% will be allocated to systems whose size is 10 kW or smaller; and (b) the remaining 50% will be allocated to systems whose size is greater than 10 kW, but not greater than 50 kW; and
- A mechanism by which KIUC's NEM limits will be regularly reviewed in its IRP process.

In addition, Decision and Order No. 24089 ordered as follows:

the HECO Companies and KIUC shall design and propose a NEM Pilot Program for the commission's review and approval, according to the parameters described herein, that will allow, on a trial basis, the use of a limited number of larger generating units (i.e., at least 100 kw to 500 kW, and may allow for larger units) for NEM purposes. Stipulated proposals for a NEM Pilot Program shall be filed within forty-five days of the date of this Decision and Order. The Parties and Participant may file comments on the proposals for a NEM Pilot Program within ten days of filing of the proposals.⁵

In its discussion related to a NEM Pilot Program, the commission also stated that, as a part of the HECO Companies' and KIUC's proposals, "the utilities may propose an alternative rate structure for the NEM Pilot Program."⁶

⁵Decision and Order No. 24089 at 26-27, Ordering Paragraph No. 4(c).

⁶Id. at 20.

II.

Motion

On May 12, 2008,⁷ KIUC filed its Motion, requesting that the commission reconsider Ordering Paragraph 4(c) of Decision and Order No. 24089 for purposes of: (a) lowering the NEM Pilot Program range for KIUC from "100 kW to 500 kW" to "50 kW to 200 kW;" (b) allowing KIUC to file a stipulated proposal for its NEM Pilot Program within forty-five days of the date of the commission's order on its Motion; and (c) allowing KIUC an additional sixty days after submission of KIUC's stipulated proposal for its NEM Pilot Program to further consider and possibly propose an alternative rate structure for the NEM Pilot Program.

In support of its request that the commission lower the NEM Pilot Program range for KIUC, KIUC contends that an upper size requirement of 500 kW for its NEM Pilot Program will have an undue financial and technical impact on KIUC due to its limited size and operations, and that instead, a limit of 200 kW would be more appropriate for KIUC. KIUC understands that MECO and HELCO have annual system peaks that are each in excess of 200 megawatts ("MW") (or 200,000 kW); as such, the addition of a 500 kW generating unit to their systems would only represent roughly 0.25% of their respective annual system peaks. KIUC further notes that HECO has an annual system peak in excess of

⁷KIUC requested an extension of time to file the Motion; the commission granted this request by letter dated April 28, 2008.

1 gigawatt (or 1,000,000 kW). By contrast, however, KIUC's annual system peak is currently at approximately 78 MW (or 78,000 kW), which is about 2.5 to 3 times less than MECO and HELCO, and at least 10 times less than HECO. Accordingly, KIUC contends:

As such, the addition of even one (1) 500 kW generating unit to KIUC's system could potentially have a much more significant impact on KIUC's operations and revenues than on the other electric utilities. Given this, while a NEM Pilot Program range of "100 kW to 500 kW" may be appropriately sized for the HECO Companies, subjecting KIUC to this same range would be unreasonable, and would have an undue and disparate impact on KIUC. Instead, given the size differences between the utilities, KIUC believes that a more appropriate upper limit for its NEM Pilot Program would be 200 kW.⁸

KIUC also maintains that its NEM Pilot Program Range should be lowered to "50 kW to 200 kW" to be consistent with the commission's approval of 50 kW as the customer-generator size limit for KIUC.

Given its request for reconsideration in its Motion, KIUC requests that the commission grant it an extended time period -- within forty-five days of the date of the commission's order on its Motion -- to file a stipulated proposal for its NEM Pilot Program. In addition, KIUC requests additional time to determine: (1) whether an alternative rate structure is needed or appropriate; and (2) if so, to determine what type of alternative rate structure is needed "to adequately insulate KIUC's members

⁸Motion at 5-6 (footnote omitted).

from the effects of NEM's subsidy impact on general rates."⁹ Specifically, KIUC requests an additional sixty days after submission of KIUC's stipulated proposal for a NEM Pilot Program to propose an alternative rate structure for the NEM Pilot Program.

Based on the foregoing, KIUC asks that the commission modify Ordering Paragraph 4(c) of Decision and Order No. 24089 to state the following:

With respect to the HECO Companies, the HECO Companies shall design and propose a NEM Pilot Program for the Commission's review and approval, according to the parameters described in Decision and Order No. 24089, that will allow, on a trial basis, the use of a limited number of larger generating units (i.e., at least 100 kW to 500 kW, and may allow for larger units) for NEM purposes. Stipulated proposals for the HECO Companies' NEM Pilot Programs shall be filed within forty-five days of the date of Decision and Order No. 24089.

With respect to KIUC, KIUC shall design and propose a NEM Pilot Program for the Commission's review and approval, according to the parameters described in Decision and Order No. 24089, that will allow, on a trial basis, the use of a limited number of larger generating units (i.e., at least 50 kW to 200 kW, and may allow for larger units) for NEM purposes. Stipulated proposal(s) for KIUC's NEM Pilot Program shall be filed within forty-five days of the date of this Decision and Order [i.e., the Decision and Order issued on KIUC's Motion for Reconsideration]. In addition, notwithstanding anything in Decision and Order No. 24089 to the contrary, KIUC shall have sixty days after submission of KIUC's stipulated proposal for a NEM Pilot Program, to propose an alternative rate structure for the NEM Pilot Program.

⁹Id. at 8.

The Parties and Participant may file comments on the proposals for a NEM Pilot Program within ten days of filing of the proposals.¹⁰

Upon review, the commission finds the requests in the Motion to be reasonable. Modifying the NEM Pilot Program range for KIUC appears appropriate in light of KIUC's relatively smaller operational size, and would be consistent with Decision and Order No. 24089. Moreover, given these modifications, it is reasonable to allow KIUC additional time, as requested in the Motion, to file a proposed NEM Pilot Program, and to propose an alternative rate structure. The commission, however, finds it reasonable to allow the Parties and Participant to file comments on any alternative rate structure proposed by KIUC. Accordingly, the commission grants the Motion and modifies Ordering Paragraph 4(c) of Decision and Order No. 24089 to state the following:

With respect to the HECO Companies, the HECO Companies shall design and propose a NEM Pilot Program for the commission's review and approval, according to the parameters described in Decision and Order No. 24089, that will allow, on a trial basis, the use of a limited number of larger generating units (i.e., at least 100 kW to 500 kW, and may allow for larger units) for NEM purposes. Stipulated proposals for the HECO Companies' NEM Pilot Programs shall be filed within forty-five days of the date of Decision and Order No. 24089.

With respect to KIUC, KIUC shall design and propose a NEM Pilot Program for the commission's review and approval, according to the parameters described in Decision and Order No. 24089, that will allow, on a trial basis, the use of a limited number of larger

¹⁰Id. at 9.

generating units (i.e., at least 50 kW to 200 kW, and may allow for larger units) for NEM purposes. Stipulated proposal(s) for KIUC's NEM Pilot Program shall be filed within forty-five days of the date of this Order. In addition, notwithstanding anything in Decision and Order No. 24089 to the contrary, KIUC shall have sixty days after submission of KIUC's stipulated proposal for a NEM Pilot Program, to propose an alternative rate structure for the NEM Pilot Program.

The Parties and Participant may file comments on KIUC's proposal for a NEM Pilot Program within ten days of filing of the proposal. In addition, the Parties and Participant may file comments on any alternative rate structure proposed by KIUC, within ten days of filing of the proposal.

III.

Orders

THE COMMISSION ORDERS:

1. The Motion is granted.
2. Ordering Paragraph 4(c) of Decision and Order

No. 24089 is hereby modified to state as follows:

With respect to the HECO Companies, the HECO Companies shall design and propose a NEM Pilot Program for the commission's review and approval, according to the parameters described in Decision and Order No. 24089, that will allow, on a trial basis, the use of a limited number of larger generating units (i.e., at least 100 kW to 500 kW, and may allow for larger units) for NEM purposes. Stipulated proposals for the HECO Companies' NEM Pilot Programs shall be filed within forty-five days of the date of Decision and Order No. 24089.

With respect to KIUC, KIUC shall design and propose a NEM Pilot Program for the commission's review and approval, according

to the parameters described in Decision and Order No. 24089, that will allow, on a trial basis, the use of a limited number of larger generating units (i.e., at least 50 kW to 200 kW, and may allow for larger units) for NEM purposes. Stipulated proposal(s) for KIUC's NEM Pilot Program shall be filed within forty-five days of the date of this Order. In addition, notwithstanding anything in Decision and Order No. 24089 to the contrary, KIUC shall have sixty days after submission of KIUC's stipulated proposal for a NEM Pilot Program, to propose an alternative rate structure for the NEM Pilot Program.

The Parties and Participant may file comments on KIUC's proposal for a NEM Pilot Program within ten days of filing of the proposal. In addition, the Parties and Participant may file comments on any alternative rate structure proposed by KIUC, within ten days of filing of the proposal.

3. Within forty-five days of the date of this Order, KIUC shall file a stipulated proposal for KIUC's NEM Pilot Program. The Parties and Participant may file comments on KIUC's proposal for a NEM Pilot Program within ten days of filing of the proposal.

4. KIUC shall have sixty days after submission of KIUC's stipulated proposal for a NEM Pilot Program, to propose an alternative rate structure for the NEM Pilot Program. The Parties and Participant may file comments on any alternative rate structure proposed by KIUC, within ten days of filing of the proposal.

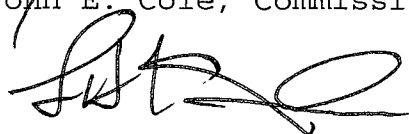
5. All other portions of Decision and Order No. 24089 remain unchanged.

DONE at Honolulu, Hawaii APR - 7 2009.


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:


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2006-0084.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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Certificate of Service

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