

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
 HAWAIIAN ELECTRIC COMPANY, INC. )  
 )  
 For Approval of a Power Purchase )  
 Agreement with Kahuku Wind Power, )  
 LLC, and Determination that the )  
 Hawaiian Electric-Owned )  
 Interconnection Facilities be )  
 Constructed Above the Surface of )  
 the Ground Pursuant to Hawaii )  
 Revised Statutes 269-27.6(a). )  
 \_\_\_\_\_ )

DOCKET NO. 2009-0176

ORDER APPROVING THE PARTIES'  
PROPOSED PROCEDURAL ORDER, AS MODIFIED

PUBLIC UTILITIES  
COMMISSION

2009 OCT -9 P 1:14

FILED



Power, LLC ("Kahuku Wind Power"), dated July 2, 2009 ("PPA"), and of other related matters.<sup>2</sup> HECO filed its Application pursuant to HAR § 6-60-6, HRS § 269-27.6(a), and the proposed surcharge that is pending the commission's review and consideration in In re Public Util. Comm'n, Docket No. 2007-0416 ("Docket No. 2007-0416"), which is self-described by HECO as the Renewable Energy Infrastructure Program/Clean Energy Initiative Surcharge.<sup>3</sup> In essence, HECO seeks to purchase energy on an as-available basis from Kahuku Wind Power's thirty megawatt wind farm pursuant to the terms of the PPA.

On September 30, 2009, the Parties timely submitted their Proposed Procedural Order, which outlines the proposed issues, schedule, and procedures to govern this docket.<sup>4</sup>

## II.

### Stipulated Procedural Order, as Modified

Upon review, the commission approves the Parties' Proposed Procedural Order, subject to certain modifications. Specifically, for Section II, Schedule of Proceedings, the reference to "and the parties do not waive the right to a hearing" is deleted, as there is no right to a hearing under

<sup>2</sup>Application; Exhibits 1 - 15; Verification; and Certificate of Service, filed on August 5, 2009 (collectively, "Application").

<sup>3</sup>See Application, Section XV.A, Commission Approval/HAR §6-60-6, at 77; Section XV.C, Commission Approval/HRS § 269.27.6(A) - 46 kV Overhead Transmission Lines, at 79; and Section XV.F, Commission Approval/REIP Surcharge, at 85-88.

<sup>4</sup>A copy of the Parties' Proposed Procedural Order is attached as an exhibit to this Order.

HAR § 6-60-6, HRS § 269-27.6(a), or the proposed surcharge that is pending commission action in Docket No. 2007-0416. Accordingly, page 6 of the Parties' Proposed Procedural Order is modified to read as follows, in relevant part:<sup>5</sup>

If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation [and the parties do not waive the right to a hearing,] the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

Lastly, the commission notes that the Parties stipulate to the filing of their respective position statements by December 2009, which appears to suggest that HECO seeks the commission's written decision by early 2010. The commission makes the following observations in response thereto:

1. To date, an Interconnection Requirements Study ("IRS") has not been completed for the proposed as-available energy project. Instead, Electric Power Systems Inc. is in the process of completing the IRS as set forth in the IRS Letter Agreement that is attached as Exhibit 6 to the Application.

2. As explained by HECO: (A) the IRS has been on hold since April 2008, when a technical issue was identified based on the specific type of wind turbines Kahuku Wind Power selected for its wind farm; (B) First Wind has included a Battery Energy Storage System in order to mitigate the technical issues; (C) the IRS was re-started in February 2009; and (D) following the completion of the IRS and the contracting parties' review

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<sup>5</sup>Deletions are bracketed, additions are underscored.

thereof, the PPA will be amended to reflect the results of the completed IRS.

3. Thus, the delay in completing the IRS and corresponding amendments to the PPA will likely result in the need for the Parties to amend their agreed-upon procedural deadlines, including the dates for the filing of their respective position statements.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. The Parties' Proposed Procedural Order, filed on September 30, 2009, is approved, as modified, consistent with the terms of this Order.

2. Page 6 of the Procedural Order is modified to read as follows, in relevant part:

If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

DONE at Honolulu, Hawaii OCT - 9 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:

  
Michael Azama  
Commission Counsel

2009-0176.cp

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Application Of

HAWAIIAN ELECTRIC COMPANY, INC.

For Approval of Power Purchase Agreement With  
Kahuku Wind Power, LLC, and Determination that the  
Hawaiian Electric-Owned Interconnection Facilities be  
Constructed Above the Surface of the Ground Pursuant to  
HRS 269-27.6(a).

DOCKET NO. 2009-0176

STIPULATED PROCEDURAL ORDER

AND

CERTIFICATE OF SERVICE

PUBLIC UTILITIES  
COMMISSION

2009 SEP 30 P 12: 23

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Application Of

HAWAIIAN ELECTRIC COMPANY, INC.

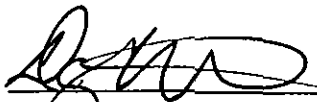
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Constructed Above the Surface of the Ground Pursuant to  
HRS 269-27.6(a).

DOCKET NO. 2009-0176


STIPULATED PROCEDURAL ORDER

Applicant Hawaiian Electric Company, Inc. ("Hawaiian Electric") and the  
Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs  
(the "Consumer Advocate") hereby stipulate that the attached Stipulated Procedural Order  
is mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, September 30, 2009.



DARCY ENDO-OMOTO  
Vice President  
Government and Community Affairs  
Hawaiian Electric Company, Inc.



CATHERINE P. AWAKUNI  
Executive Director  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Application Of

HAWAIIAN ELECTRIC COMPANY, INC.

For Approval of Power Purchase Agreement With  
Kahuku Wind Power, LLC, and Determination that the  
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Constructed Above the Surface of the Ground Pursuant to  
HRS 269-27.6(a)

DOCKET NO. 2009-0176

STIPULATED PROCEDURAL ORDER

On August 5, 2009, Hawaiian Electric Company, Inc. (“Hawaiian Electric”) filed an application requesting Commission approval of a Power Purchase Agreement for As-Available Energy between Hawaiian Electric and Kahuku Wind Power, LLC, dated July 2, 2009 (“PPA”), and of other related matters.<sup>1</sup> Hawaiian Electric served copies of the application on the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the “Consumer Advocate”).

By Order Instructing the Parties to Submit a Stipulated Procedural Order, filed August 31, 2009, the Commission directed the Parties<sup>2</sup> to submit a stipulated procedural schedule for the commission’s review and consideration by September 30, 2009.

Hawaiian Electric and the Consumer Advocate have reached agreement on

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<sup>1</sup> Application; Exhibits 1-15; Verification; and Certificate of Service, filed on August 5, 2009 (collectively, “Application”).

procedural matters and submit this Stipulated Procedural Order to the Commission, which is acceptable to the parties.

ACCORDINGLY, IT IS ORDERED that the following Statement of the Issues, Schedule of Proceedings and procedures shall be utilized in this docket.

I.

STATEMENT OF THE ISSUES

The issues in this docket are:

1. Whether the Power Purchase Agreement between Hawaiian Electric and Kahuku Wind Power, LLC, dated July 2, 2009 (“PPA”), should be approved.
  - a. Whether Hawaiian Electric should be allowed to include the purchased energy charges (and related revenue taxes) that Hawaiian Electric incurs under the PPA in Hawaiian Electric’s Energy Cost Adjustment Clause, to the extent that they are not included in Hawaiian Electric’s base rates.
  - b. Whether the energy charges to be paid by Hawaiian Electric pursuant to the PPA are reasonable.
  - c. Whether Hawaiian Electric’s purchased power arrangements under the PPA are prudent and in the public interest.

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<sup>2</sup> The Parties are Hawaiian Electric and the 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).

2. Whether Hawaiian Electric should be allowed to recover the proposed payment for the switching station and its share of the cost of the microwave communications system and miscellaneous microwave network costs through the Renewable Energy Infrastructure Program (“REIP”)/Clean Energy Initiative (“CEI”) Surcharge pending approval in Docket No. 2007-0416.
3. Whether Hawaiian Electric may install the proposed 46 kV interconnection tie lines above the surface of the ground, pursuant to Hawaii Revised Statutes (“HRS”) §269-27.6(a).

In its application, Hawaiian Electric also requested approval for a waiver of Rule 13 of its Tariff to allow Hawaiian Electric to pay approximately \$212,000 for the relocation of a portion of an existing 12kV overhead line. As explained in the application, the line needs to be relocated to accommodate one of Kahuku Power’s proposed wind turbine generators, and the easement for the existing line requires that, when the line interferes with development on the premises, Hawaiian Electric must relocate the line at its expense. A waiver of Rule 13 is not required, however, for an overhead relocation of an existing distribution line, and Hawaiian Electric is withdrawing the request for the waiver.

## II.

### SCHEDULE OF PROCEEDINGS

Technical Meeting <sup>3</sup>	October 2009
Consumer Advocate Information Requests (“IRs”) to Hawaiian Electric	November 5, 2009
Hawaiian Electric IR Responses to Consumer Advocate	November 20, 2009
Consumer Advocate Statement of Position (“SOP”)	December 11, 2009
Hawaiian Electric Reply SOP, if necessary*	December 23, 2009

\* If the Consumer Advocate objects to approval of the application, or requests that approval be subject to conditions.

If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation and the parties do not waive the right to a hearing, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If Hawaiian Electric determines that a Reply SOP is unnecessary, Hawaiian Electric and the Consumer Advocate will notify the Commission that the proceeding is ready for decision making.

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<sup>3</sup> Date to be agreed upon by the Consumer Advocate and Hawaiian Electric.

### III.

#### MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

##### A. Requests for Information

To the extent practical, Hawaiian Electric and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope or meaning of information requests, or with respect to the availability of information. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or *materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time.* In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium available to the other party and the Commission.

A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record,

or that may be stipulated to pursuant to Part B, *infra*. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, *compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files* or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to a protective order governing this docket.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

B. Matters of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that Hawaiian Electric has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to electric utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the Commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

C. Copies of Filings, Information Requests, Responses to Information Requests, Statement of Position:

1. Filings:

Commission	Original + 8 copies
Consumer Advocate	2 copies
Hawaiian Electric	2 copies

2. All pleadings, and other documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, subchapter 2, section 6-61-16 of the Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

3. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or United States mail (first class, postage prepaid). In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via CD or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via CD or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be



delivered to such party by hand delivery or United States mail (first class, postage prepaid) as provided above.

D. Communications

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall also be served on opposing counsel, if any.

E. General

These procedures are consistent with the orderly conduct of this docket. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

APPROVED AND SO ORDERED THIS

\_\_\_\_\_, at Honolulu, Hawaii.

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:

\_\_\_\_\_  
Michael Azama  
Commission Counsel

CERTIFICATE OF SERVICE

The foregoing Stipulated Procedural 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

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

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  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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Counsel for HECO