

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. )  
For Approval of the Biodiesel )  
Supply Contract for the Campbell )  
Industrial Park Combustion Turbine )  
Biodiesel Emissions Data Project )  
and to Include the Biodiesel Supply )  
Contract Costs in Hawaiian )  
Electric's Energy Cost Adjustment )  
Clause. )

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DOCKET NO. 2009-0296

ORDER APPROVING, WITH MODIFICATIONS, THE PROPOSED  
STIPULATED PROCEDURAL ORDER SUBMITTED ON DECEMBER 7, 2009

2009 DEC 14 P 12:31  
PUBLIC UTILITIES  
COMMISSION

FILED

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In the Matter of the Application of)  
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Clause. )  

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Docket No. 2009-0296

ORDER APPROVING, WITH MODIFICATIONS, THE PROPOSED  
STIPULATED PROCEDURAL ORDER SUBMITTED ON DECEMBER 7, 2009

By this Order, the commission approves, with modifications, the proposed Stipulated Procedural Order submitted on December 7, 2009, by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"),<sup>1</sup> and LIFE OF THE LAND ("LOL").<sup>2</sup> Specifically, the commission modifies Section V (Copies of Pleadings, Briefs, and Other Documents) as set forth herein.

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<sup>1</sup>HECO and the Consumer Advocate are collectively referred to as the "Parties."

<sup>2</sup>The proposed Stipulated Procedural Order is attached as Exhibit 1 to this Order.

I.

Background

On October 2, 2009, HECO filed an application ("Application") for approval of a biodiesel supply contract with REG Marketing and Logistics, LLC ("Supply Contract"). The Supply Contract is for a one-time purchase of approximately 400,000 net U.S. gallons of biodiesel that will be used for testing in HECO's new combustion turbine generating unit at Campbell Industrial Park. Second, HECO requests approval to include the costs of the Supply Contract (including without limitation, the costs associated with the biodiesel, transportation, and related taxes) in its Energy Cost Adjustment Clause ("ECAC"), to the extent that the costs are not recovered in HECO's base rates. Third, HECO requests approval to defer all costs incurred to date for the Supply Contract, to the extent costs have been incurred prior to commission approval of the Supply Contract and to the extent such costs are not recovered in HECO's base rates, and allow such costs to be recovered through ECAC. Fourth, HECO seeks approval to use biodiesel blended with no more than 1% petroleum diesel (in addition to using 100% biodiesel) in order to benefit from the Federal biofuel blender's tax credit.

On October 21, 2009, LOL timely filed a Motion to Participate in this proceeding. By Order filed on November 18, 2009, the commission granted LOL's Motion to Participate and limited LOL's participation to the following issues: (1) the environmental sustainability of biodiesel derived from yellow

grease (recycled cooking oil) and/or waste animal fat, and (2) the use of B99 biodiesel blended with no more than 1% petroleum diesel (in addition to the 100% biodiesel) for the purpose of benefiting from the Federal biofuel blender's tax credit. In the same order, the commission instructed the Parties and LOL to submit a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding, within fifteen days of the date of the order and consistent with certain parameters.

II.

Stipulated Procedural Order

On December 7, 2009, the Parties and LOL submitted their proposed Stipulated Procedural Order. Upon review, the commission finds it appropriate to adopt the Stipulated Procedural Order, with the exception of Section V regarding the number of copies of pleadings, briefs, and other documents filed with the commission.

In the Stipulated Procedural Order, the Parties and LOL agreed to file "Original + 8 copies" with the commission. As fewer copies will be needed, the number of copies to be filed with the commission shall be "Original + 2 copies" in this docket.

III.

Order

THE COMMISSION ORDERS:

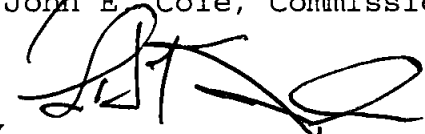
The proposed Stipulated Procedural Order, filed on December 7, 2009, attached as Exhibit 1 to this Order, is approved as modified herein, consistent with the terms of this Order.

DONE at Honolulu, Hawaii DEC 14 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:

  
Bonita Y.M. Chang  
Commission Counsel

2009-0296.laa

BEFORE THE PUBLIC UTILITIES COMMISSION  
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In the Matter of the Application of )  
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 Cost Adjustment Clause. )  
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Docket No. 2009-0296

STIPULATED PROCEDURAL ORDER

and

CERTIFICATE OF SERVICE

PUBLIC UTILITIES  
COMMISSION

2009 DEC -7 P 3:04

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

|  |   |                      |
|--|---|----------------------|
| In the Matter of the Application of          | ) |                      |
|  | ) |                      |
| HAWAIIAN ELECTRIC COMPANY, INC.              | ) | Docket No. 2009-0296 |
|  | ) |                      |
| For Approval of the Biodiesel Supply         | ) |                      |
| Contract for the Campbell Industrial Park    | ) |                      |
| Combustion Turbine Biodiesel Emissions Data  | ) |                      |
| Project and to include the Biodiesel Supply  | ) |                      |
| Contract Costs in Hawaiian Electric's Energy | ) |                      |
| Cost Adjustment Clause.                      | ) |                      |
| _____  | ) |                      |

STIPULATED PROCEDURAL ORDER

On October 2, 2009, Hawaiian Electric Company, Inc. ("Hawaiian Electric" or "Applicant") filed an application (the "Application") requesting the approval of the Public Utilities Commission of the State of Hawai'i (the "Commission") for (1) a one time purchase of a supply of approximately 400,000 net U.S. gallons of biodiesel through a biodiesel supply contract ("Biodiesel Contract") with REG Marketing and Logistics, LLC, for use in Hawaiian Electric's new combustion turbine generating unit at Campbell Estate Industrial Park in order to obtain emissions data; (2) the inclusion of the costs of the Biodiesel Contract, including without limitation, the costs associated with the biodiesel, transportation, and related taxes, in Hawaiian Electric's Energy Cost Adjustment Clause ("ECAC") to the extent that the costs are not recovered in Applicant's base rates; (3) all costs incurred to date for the Biodiesel Contract, to the extent costs have been incurred prior to Commission approval of the Biodiesel Contract and such costs are not recovered in Hawaiian Electric's base rates, to be deferred and allow such costs to be recovered through the ECAC, pursuant to Rule 6-60-6; and (4) the use of biodiesel

blended with no more than 1% petroleum diesel (in addition to using 100% biodiesel) in order to benefit from the Federal biofuel blender's tax credit. HECO served copies of the Application on the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate") (Hawaiian Electric and the Consumer Advocate are collectively referred to as the "Parties").

On October 21, 2009, Life of the Land ("LOL" or "Participant") filed a Motion to Participate in this proceeding. By Order dated November 18, 2009 (the "Order"), the Commission granted LOL's Motion to Participate, and limited LOL's participation to the following issues: (1) the environmental sustainability of biodiesel derived from yellow grease (recycled cooking oil) and/or waste animal fat, and (2) the use of B99 biodiesel blended with no more than 1% petroleum diesel (in addition to the 100% biodiesel) for the purpose of benefitting from the Federal biofuel blender's tax credit. The Order further directed Hawaiian Electric, the Consumer Advocate and LOL to submit a stipulated procedural order for the Commission's consideration and approval by December 7, 2009.<sup>1</sup>

Hawaiian Electric, the Consumer Advocate and LOL have reached agreement on procedural matters and submit this Stipulated Procedural Order to the Commission, which is acceptable to the Parties and Participant.

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

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<sup>1</sup> The Order directs Hawaiian Electric, the Consumer Advocate, and LOL to submit a stipulated procedural order or proposed procedural order within fifteen days of the date of the Order (November 18, 2009). The Order's Certificate of Service reflects that the Parties and LOL were served by mail. Hawaii Administrative Rules (HAR) § 6-61-21(e) provides: "[w]henver a party has the right to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon the party and the notice or document is served upon the party by mail, two days shall be added to the prescribed period." Pursuant to HAR § 6-61-22, the "last day of the period so computed shall be included unless it is a Saturday, Sunday, or holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or holiday." Due to the fact that seventeen days from the date of the Order falls on Saturday, December 5, 2009, the prescribed period to respond ends on Monday, December 7, 2009.



**I.**

**STATEMENT OF THE ISSUES**

The issues in this docket are:

1. Are the terms and conditions of the Biodiesel Contract reasonable, prudent, and in the public interest?
2. Is it reasonable for Hawaiian Electric to include the costs of the Biodiesel Contract, including without limitation, the costs associated with the biodiesel, transportation, and related taxes, in Hawaiian Electric's ECAC, to the extent that they are not recovered in Applicant's base rates?
3. Is it reasonable for all costs incurred to date for the Biodiesel Contract, to the extent costs have been incurred prior to Commission approval of the Biodiesel Contract and such costs are not recovered in Hawaiian Electric's base rates, to be deferred, and allow such costs to be recovered thorough the ECAC pursuant to Rule 6-60-6?
4. Is it reasonable for Hawaiian Electric to use biodiesel blended with no more than 1% petroleum diesel (in addition to 100% biodiesel) in order to benefit from the Federal biofuel blender's tax credit?

**II.**

**SCHEDULE OF PROCEEDINGS**

The Parties shall adhere to the schedule of proceedings set forth below:

| Procedural Steps                                  | Deadlines         |
|---|-------------------|
| 1. Hawaiian Electric's Application Filed          | October 2, 2009   |
| 2. Consumer Advocate's/LOL's Information Requests | December 28, 2009 |

|  |                   |
|--|-------------------|
| 3. Hawaiian Electric's Responses to Consumer Advocate's/LOL's Information Requests | January 8, 2010   |
| 6. Consumer Advocate's/LOL's Statements of Position                                | February 4, 2010  |
| 7. Hawaiian Electric's Reply Statement of Position, if necessary                   | February 18, 2010 |

If there are substantial disagreements following the filing of the Statements of Positions, 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.

In the event the Commission desires an evidentiary hearing, such hearing shall be held at the call of the Commission. The Parties shall designate witnesses supporting their respective statements of position and reply statement of position, if any, one week prior to the hearing date.

Notwithstanding anything to the contrary contained herein, the regulatory schedule may be amended (1) as agreed in writing by the Parties and LOL and approved by the Commission, or (2) upon the Commission's own motion.

The intent in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources. Therefore, any changes to the schedule should be proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

### III.

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

A Party or Participant to this proceeding may submit information requests to another Party or Participant within the time schedule specified in this Procedural Order. To the extent

practical, the Parties and Participant will cooperate by informally resolving questions regarding information requests and responses 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 or Participant is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring Party or Participant as soon as possible. The Parties and Participant shall then endeavor to agree upon a later date for submission of the requested information. If the Parties or Participant are unable to agree, the responding Party or Participant may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the inquiring Party or Participant to act.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials, 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 or Participant responding to the information request may make the diskette or such electronic medium available to the other Party or Participant and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all formulae intact, and will not be entirely converted to values prior to submission.

A Party or Participant shall not be required, in a response to an information request, to provide data that is already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part IV below. The responding Party or Participant 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 or Participant to locate and copy the document. In addition, a Party or Participant 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 or Participant 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 or Participant claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the Party or Participant 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 or Participant if the information were disclosed); and (3) state whether the Party or Participant is willing to provide the confidential information pursuant to a protective order governing this docket. A Party or Participant seeking production of documents notwithstanding a Party's or Participant's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each Party or Participant to information requests shall adhere to a uniform system of numbering agreed upon by the Parties and Participant. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1," and a response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and reference to any attached responsive document, indicating the name of the respondent for each response.

**IV.**

**MATTERS OF PUBLIC RECORD**

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that a Party or Participant has filed with the Commission, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to water transportation 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 Participant, and further provided that any Party or Participant 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 or Participant proffers such document for admission as evidence in this proceeding.

From time to time, the Parties may stipulate in writing that such documents, or any portion of such documents, may be introduced into evidence in this proceeding.

**V.**

**COPIES OF PLEADINGS, BRIEFS, AND OTHER DOCUMENTS**

Public Utilities Commission  
465 South King Street, First Floor  
Honolulu, HI 96813

Original plus 8 copies

Division of Consumer Advocacy

2 copies

Department of Commerce & Consumer Affairs  
335 Merchant Street, Room 326  
Honolulu, HI 96813

Craig I. Nakanishi, Esq. 1 copy  
Erin H. Yoda, Esq.  
Rush Moore LLP  
737 Bishop Street, Suite 2400  
Honolulu, HI 96813

Dean K. Matsuura 1 copy  
Manager, Regulatory Affairs  
Hawaiian Electric Company, Inc.  
P.O. Box 2750  
Honolulu, Hawaii 96840-0001

Henry Q Curtis 2 copies  
Vice President for Consumer Issues  
Life of the Land  
76 North King Street, Suite 203  
Honolulu, Hawaii 96817

Correspondence and communications from the Commission to Hawaiian Electric in regard to this Application should be addressed to Dean K. Matsuura as listed above.

All pleadings, briefs, and other documents required to be filed with the Commission shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Section 6-61-15, Hawaii Administrative Rules. Copies of all filings shall be sent to the other Parties and Participant by hand delivery or by U.S. mail, postage prepaid.

In addition, if available, a Party or Participant shall provide copies of its filings to the other Party or Participant via diskette or e-mail in a standard electronic format that is readily available to the Parties or Participant. The Parties and Participant agree to use, as much as practicable, Word 97, Word 2000, Word 2003, or Word 2007 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 or Participant 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/Word 2007 as long as the applicable format is identified. In the event a copy of a filing is delivered to a Party or Participant via diskette or e-mail, unless otherwise agreed to by such Party or Participant, the same number of copies of such filing, information request, or information request response must still be delivered to such Party or Participant by hand delivery or via facsimile as provided in Part V above.

## VI.

### COMMUNICATIONS

Section 6-61-29, Hawaii Administrative Rules, concerning *ex parte* communications is applicable to any communications between a Party or Participant and the Commission.

However, a Party or Participant may communicate with Commission counsel through its own counsel or designated official only as to matters of process and procedure.

Communications between the Parties and Participant shall either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the Parties and Participant as provided in Part V above.

## VII.

### GENERAL

The foregoing procedures shall be applied in a manner consistent with the orderly conduct of this proceeding. This Stipulated Procedural Order shall control the subsequent course of the proceeding, unless modified by the Parties and Participant in writing and approved by the Commission, or upon the Commission's own motion.

This Stipulated Procedural Order may be executed by the Parties and Participant in counterparts, each of which shall be deemed an original, and all of which taken together shall

constitute one and the same instrument. The Parties and Participant may execute this Stipulated Procedural Order by facsimile for initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

DATED: Honolulu, Hawai'i, December 7, 2009.



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CRAIG I. NAKANISHI  
ERIN H. YODA  
Rush Moore LLP  
Attorneys for  
Hawaiian Electric Company, Inc.



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JON S. ITOMURA  
LANE H. TSUCHIYAMA  
Attorney for the  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs



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HENRY Q. CURTIS  
Life of the Land  
Vice President for Consumer Issues



APPROVED AND SO ORDERED THIS \_\_\_\_\_, 2009,  
at Honolulu, Hawai'i.

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 K. Djou  
Commission Counsel

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 Contract Costs in Hawaiian Electric's Energy )  
 Cost Adjustment Clause. )  
 \_\_\_\_\_ )

CERTIFICATE OF SERVICE

The foregoing document was served on the date of filing as indicated  
below by mailing a copy by United States mail, postage prepaid, to the following:

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
335 Merchant Street, Room 326  
Honolulu, Hawai'i 96813

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

HENRY Q CURTIS  
VICE PRESIDENT FOR CONSUMER ISSUES  
LIFE OF THE LAND  
76 North King Street, Suite 203  
Honolulu, Hawai'i 96817

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

DEAN NISHINA  
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

HENRY Q CURTIS  
KAT BRADY  
LIFE OF THE LAND  
76 North King Street, Suite 203  
Honolulu, HI 96817