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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of)) MAUI ELECTRIC COMPANY, LIMITED)) For Approval of a Service Contract) With Castle & Cooke Resorts, LLC.))	DOCKET NO. 03-0261

DECISION AND ORDER NO. 20811

Filed Feb. 24, 2004

At 11:30 o'clock A .M.

Karen Higashi

Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.
K. Higashi

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DECISION AND ORDER

I.

Introduction

On September 17, 2003, MAUI ELECTRIC COMPANY, LIMITED ("MECO" or "Company") filed an application requesting commission approval of a service contract with Castle & Cooke Resorts, LLC ("C&C Resorts"), to provide a discount of $250,000 annually for electric service on the island of Lanai. This application is filed pursuant to Rule 4 of MECO's tariff, which requires prior commission approval of electric service contracts with large customers.[1]

On September 17, 2003, MECO served copies of the application upon The Division of Consumer Advocacy, Department of

[1]Rule 4 of MECO's tariff provides, in relevant part, "[s]pecial contracts for service other than that provided under the tariffs [...] must be authorized by the Public Utilities Commission prior to the effective date of said contract." In addition, Sheet No. 1 of MECO's tariff provides that: "[t]he rules and rate schedules set forth herein have been fixed by order of the Public Utilities Commission of the State of Hawaii and may not be abandoned, changed, modified or departed from without the prior approval of the Commission." See Hawaii Revised Statutes § 269-16.

Commerce and Consumer Affairs ("Consumer Advocate"). On October 3, 2003, MECO filed a letter providing additional information regarding the installation of ten (10) Energy Conservation Measures ("ECMs"). On October 7, 2003, the Consumer Advocate filed its Preliminary Position Statement indicating that it will participate in this proceeding and will state its position upon completion of its investigation. On November 7, 2003, the Consumer Advocate served Information Requests ("IRs") upon MECO. On December 1, 2003, MECO filed its responses to the Consumer Advocate's IRs. On January 20, 2004, the Consumer Advocate filed its statement of position indicating that it does not object to the approval of the above application.

II.

Discussion

MECO's service contract with C&C Resorts consists of three parts: (1) A $250,000 annual discount for electricity service to the Manele Bay Hotel for three years, (2) an arrangement with an energy services company, Pacific Energy Services Company, to install ten (10) ECMs", and (3) consideration of a MECO-owned combined heat and power ("CHP") system at the Manele Bay Hotel.

A.

$250,000 Annual Discount for C&C Resorts

MECO is proposing to provide an annual discount of $250,000 for electric service to C&C Resorts for the Manele Bay Hotel on the island of Lanai. The discount will be provided for three years, or until final installation and operation of a CHP system at Manele Bay Hotel, whichever occurs first. According to MECO, the three-year term was negotiated between MECO and C&C Resorts. MECO states that the $250,000 amount was a compromise between MECO's initial offer of $150,000 and C&C Resorts' objective to save approximately $500,000 per year. MECO also represents that the three-year term also would allow time to install additional generation to meet future customer demand on Lanai closer to the time when generation is needed.

MECO asserts that it plans to absorb the cost of the $250,000 discount and does not plan to seek cost recovery of the discount.[2] MECO further represents that it does not plan to have a rate case within the three-year term of the service agreement.

While the Consumer Advocate initially had a few concerns regarding the discount, it concluded the $250,000 discount is reasonable based on the following: (1) the discount represents only 4.1 per cent of the total Lanai electric sales revenues for 2002 ($250,000/$6,075,000). By comparison, MECO could lose $2,249,000 in base electricity revenues if the C&C Resort accounts leave the Lanai system; (2) the $250,000 discount represents eleven (11) per cent of C&C Resort's 2002

[2]See Response to CA-IR-2.

base revenues which is comparable to the ten (10) per cent customer retention discount approved by the commission in Docket No. 99-0177 to combat the loss of load caused by the situations involving self-generation on the Hawaii Electric Light Company, Inc.'s system on the island of Hawaii.

Upon review, the commission finds that the $250,000 discount to C&C Resorts is reasonable and in the public interest, particularly in light of potential loss of revenues to MECO and the impact on the remaining ratepayers. The commission notes that, at most, the discount is only for a period of three-years and the commission intends to revisit the issues of customer retention discounts in its pending investigation concerning distributed generation in Hawaii, Docket No. 03-0371.[3]

Relating to distributed generation, the commission has serious concerns of Term and Condition No. 5 of MECO's service contract entitled "Termination Upon Exercise of Self-Generation Option" ("Term and Condition No. 5"). This provision could give MECO an unfair competitive advantage in pursuing future Distributed Generation ("DG") installations for C&C Resorts, particularly because, under this provision, C&C Resorts may be penalized by paying MECO all the customer retention discount back to the effective date of the contract if C&C Resorts installs a non-CHP DG unit from another vendor. The commission agrees, nonetheless, that C&C Resorts should not receive any future customer retention discounts, going forward, under the contract

[3]The commission will hold MECO to its representations (1) that it will absorb the cost of the discount, and (2) MECO will not seek cost recovery of the discount.

in the event that C&C Resorts installs a non-utility DG unit during the contract period. Based on the above, we find that Term and Condition No. 5 is unreasonable and not consistent with the public interest. We, thus, conclude that Term and Condition No. 5 should be amended to not allow MECO to obtain a refund retroactively from C&C Resorts in the event that C&C Resorts installs a non-CHP DG unit from a third party.

B.

Energy Conservation Measures Projects ("ECMs Projects")

In addition to the $250,000 discount, the service contract also includes installation of ten (10) ECMs. MECO states that C&C Resorts has entered into an Engineering, Procurement and Construction Agreement ("EPC Agreement"), with Energy Industries, LLC, dba Pacific Energy Service Company ("Pac Energy"). Under this EPC Agreement, Pac Energy would install the ten (10) ECMs, five (5) at the Manele Bay Hotel site, four (4) at the Lodge site, and one (1) at the Central Services site. With the installation of the ten (10) ECMs, MECO estimates that the Lanai system peak would be reduced by 20.5 kw and the annual kwh generated by MECO's system would be reduced by 192,000 kwh.

As part of the EPC Agreement, MECO will pay Pac Energy the amounts owed by C&C Resorts and C&C Resorts would repay MECO a portion of the ECMs Projects costs. MECO estimates that the ECMs Projects costs will range from approximately $568,000 to $648,000. C&C Resorts in turn would repay MECO a total of

$252,000, the estimated cost of the ECMs materials, plus the material cost associated with Change Orders (after approval by MECO), and 50 per cent of the contingency amount spent or paid to Pac Energy as its incentive fee.

MECO also represents that five (5) of the ECMs would be within the scope of Demand-Side Management ("DSM") programs. MECO expects to recover the costs for the five (5) ECMs under the Commercial and Industrial Energy Efficiency Program (Docket No. 95-0140), and the Commercial and Industrial Customized Rebate Program (Docket No. 95-0142) DSM cost recovery process and mechanism. MECO asserts that it does not intend to recover the cost of the other ECM projects that do not fall within the scope of its existing DSM program from its customers. MECO will pay for these costs and record the costs on a below-the-line basis. Similarly, MECO does not intend to recover the labor portion or the project management service of the ECMs costs from its Lanai customers. MECO asserts that these services will not be performed by MECO personnel. MECO will also pay these costs and record the costs on a below-the-line basis.[4]

The Consumer Advocate reviewed the updated ECMs costs. The five (5) non-DSM projects represent over 80 per cent of the project labor costs. It should be noted that three (3) of the five (5) non-DSM projects involve switching from propane (non-utility) to electricity. Two (2) of the five (5) projects will increase C&C Resorts energy consumption and MECO revenues. Although MECO will record the labor costs below the line, MECO

[4]See Response to CA-IR-4d.

will realize additional kwh sales of 108,560 kwh, approximately $21,000 annually in electricity revenues.

For C&C Resorts, the ten (10) ECMs would result in total kwh savings of $173,666, only 1.5 per cent of its 2002 total kwh load. In addition, C&C Resorts' accounts represent all of the three (3) Schedule P accounts on Lanai which comprise a majority of the DSM savings. Therefore, C&C Resorts will pay for a majority of the allowable costs, lost margins, and shareholder incentives through the DSM cost recovery process and mechanism.

Upon review, the commission finds the EPC Agreement to install the ten (10) ECMs Projects is reasonable and in the public interest.

C.

MECO-owned CHP system at the Manele Bay Hotel

The third part of the service contract is that the MECO and C&C Resorts will pursue the possible installation of a MECO-owned CHP facility at the Manele Bay Hotel, including providing energy at a lower rate for C&C Resorts than the rate charged other customers in the same customer class. MECO states that it will seek commission approval of its CHP agreement with C&C Resorts under a separate application. MECO also states that no negotiations have begun regarding the possible CHP facility and that C&C Resorts is not obligated to install MECO's proposed CHP project at the Manele Bay Hotel site. Therefore, the commission finds that it need not make a determination as to the reasonableness of MECO's proposed CHP project at this time and further notes that the commission has not ruled on HECO's CHP program application in Docket No. 03-0366 and the commission's own investigation into distributed generation in Hawaii, Docket No. 03-0371.

III.

THE COMMISSION ORDERS that MECO's service contract with C&C Resorts, as more fully described in its application, is approved, subject to the required revision to Term and Condition No. 5 of the service contract. Within thirty (30) days of the date of this decision and order, MECO shall file its revised service contract consistent with the terms and conditions of this decision and order.

DONE at Honolulu, Hawaii this 24th day of February, 2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By ______________________
Carlito P. Caliboso, Chairman

By ______________________
Wayne H. Kimura, Commissioner

By ______________________
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

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Kevin M. Katsura
Commission Counsel

03-0261.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20811 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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DATED: February 24, 2004