

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)
)

DOCKET NO. 03-0366

For Approval of a CHP Program,)
Schedule CHP - Customer-Sited)
Utility-Owned Cogeneration Service,)
Inclusion of Related Fuel Costs in)
the Energy Cost Adjustment Clause,)
and a Modification to the Energy)
Cost Adjustment Clause and)
Schedule Q.)
)

ORDER NO. 23196

Filed Jan. 16, 2007
At 12 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

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

K. Higashi

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the Energy Cost Adjustment Clause,)
and a Modification to the Energy)
Cost Adjustment Clause and)
Schedule Q.)

Docket No. 03-0366

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ORDER

By this Order, the commission approves the withdrawal of application filed by HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., and MAUI ELECTRIC COMPANY, LIMITED (collectively, the "HECO Utilities") on December 29, 2006, without prejudice, and closes this docket.

I.

Withdrawal of Application

On October 10, 2003, the HECO Utilities filed their application requesting that the commission approve: (1) each utility's Combined Heat and Power ("CHP") Program and initial five-year budget of capital expenditures for the program, subject to certain flexibility provisions; (2) each utility's proposed Schedule CHP, Customer-Sited Utility-Owned Cogeneration

Service ("Schedule CHP"), and the proposed standard form CHP Agreement and the eligibility criteria included therein; (3) the inclusion of the fuel and transportation costs, and related revenue taxes, incurred under the CHP Agreements filed pursuant to the CHP Program and Schedule CHP, in each utility's respective energy cost adjustment clause ("ECAC"), to the extent that such costs are not recovered in each utility's base rates; (4) a modification to each utility's respective ECAC, avoided energy cost filing, and Schedule Q to allow the inclusion of the fuel and transportation costs, and related revenue taxes, incurred under the CHP Agreements filed pursuant to the CHP Program and Schedule CHP; and (5) an exemption from the requirements of Paragraph 2.3(g)(2) of General Order No. 7, Standards for Electric Utility Service in the State of Hawaii, for CHP system capital expenditures projects completed pursuant to each utility's Schedule CHP.¹

Motions to intervene were filed by Life of the Land; Johnson Controls, Inc. and Pacific Machinery, Inc.; The Gas Company, LLC; and Hawaii Renewable Energy Alliance.²

¹Application; Verification; Exhibits A - K; and Certificate of Service, filed on October 10, 2003, as amended on November 13, 2003, November 19, 2003, and December 17, 2003 (collectively, "Application"). The HECO Utilities served copies of their Application upon 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 § 6-61-62(a).

²Life of the Land's Motion to Intervene and Certificate of Service, filed on October 29, 2003; Johnson Controls, Inc. and Pacific Machinery, Inc.'s Motion to Intervene and Certificate of Service, filed on October 30, 2003; The Gas Company, LLC's

The HECO Utilities filed responses to each of the motions to intervene.³

On October 31, 2003, the Consumer Advocate filed its Statement of Position, recommending that the commission consolidate Docket No. 03-0366 with In re Public Util. Comm'n, Docket No. 03-0371, the commission's generic distributed generation proceeding.⁴ In the alternative, the Consumer Advocate recommended that this proceeding be suspended until the commission's issuance of its decision and order in Docket No. 03-0371. On December 26, 2003, the HECO Utilities filed their response to the Consumer Advocate's Statement of Position, stating their opposition to the suspension or consolidation of Docket No. 03-0366 with Docket No. 03-0371.⁵

Motion to Intervene and Certificate of Service, filed on October 30, 2006; and Hawaii Renewable Energy Alliance's Motion to Enlarge Time to Intervene and Memorandum in Support of Motion, Motion to Intervene, and Certificate of Service, filed on October 31, 2003.

³Memorandum in Response to Life of the Land's Motion to Intervene, and Certificate of Service, filed on November 5, 2003; Memorandum in Response to Hawaii Renewable Energy Alliance's Motion to Enlarge Time to Intervene and Motion to Intervene, and Certificate of Service, filed on November 7, 2003; Memorandum in Response to Motion to Intervene of The Gas Company, LLC, and Certificate of Service, filed on November 12, 2003; and Memorandum in Response to Motion to Intervene of Johnson Controls, Inc. and Pacific Machinery, Inc., and Certificate of Service, filed on November 12, 2003.

⁴Consumer Advocate's Statement of Position and Certificate of Service, filed on October 31, 2003.

⁵HECO Utilities' Reply to the Consumer Advocate's Statement of Position; Exhibits 1 - 4; and Certificate of Service, filed on December 26, 2003.

On March 2, 2004, the commission: (1) suspended the HECO Utilities' Application, pending the disposition of Docket No. 03-0371; and (2) held in abeyance the pending motions to intervene.⁶

By Decision and Order No. 22248, filed on January 27, 2006, in Docket No. 03-0371, the commission "set forth certain policies and principles for the deployment of distributed generation in Hawaii and certain guidelines and requirements for distributed generation, some of which will be further defined by tariff as approved by the commission."⁷ In addition, Decision and Order No. 22248 authorized the HECO Utilities to pursue their Application in this docket, provided that they amended the Application to include relevant facts governing: (1) legitimate system need; (2) least cost alternative (subsequently clarified to mean lowest reasonable cost); and (3) an open and competitive process acceptable to the commission.

On November 2, 2006, the HECO Utilities were instructed to advise the commission, by December 29, 2006, "on the status of the HECO Utilities' efforts in this docket, including whether the HECO Utilities intend to amend or withdraw their application[.]"⁸ In response thereto, the HECO Utilities, on December 29, 2006,

⁶Order No. 20831, filed on March 2, 2004.

⁷Decision and Order No. 22248, at 1. Thereafter, on April 6, 2006, the commission: (1) granted in part and denied in part the motion for clarification filed by the HECO Utilities; and (2) denied the HECO Utilities' motion for partial reconsideration. Order No. 22375, filed on April 6, 2006.

⁸Commission's Letter, dated November 2, 2006, at 1.

filed a withdrawal of their Application, "request[ing] that the Commission close this docket without prejudice."⁹

The commission approves the HECO Utilities' withdrawal of their Application without prejudice, and closes this docket.¹⁰ The commission's approval herein renders moot the motions to intervene.

II.

Orders

THE COMMISSION ORDERS:

1. The withdrawal of the HECO Utilities' Application, filed on December 29, 2006, is approved, without prejudice.

2. This docket is closed unless ordered otherwise by the commission.

⁹Withdrawal of Application, filed on December 29, 2006, at 3. The HECO Utilities chose to withdraw their Application, "believ[ing] that it would be more appropriate to consider customer-sited CHP projects on a case-by-case basis, and if a decision is made to pursue the implementation of a customer-sited CHP project, then an application would be filed requesting Commission approval of such customer-sited CHP project." Id. at 2 - 3.

¹⁰Copies of this Order are being served on the HECO Utilities, the Consumer Advocate, and the movants.

DONE at Honolulu, Hawaii JAN 16 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

03-0366.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23196 upon the following persons, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such person.

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Certificate of Service
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DATED: JAN 16 2007