

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Proposed Tariffs)
Filed by Hawaiian Electric)
Company, Inc., Hawaii Electric)
Light Company, Inc., and Maui)
Electric Company, Limited,)
Governing Distributed Generation)
and Other Related Matters.)
_____)

DOCKET NO. 2006-0497

ORDER NO. 23430

RECEIVED
2007 MAY 14 A 8:28
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed May 11, 2007
At 11 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.

Karen Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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| Electric Company, Limited, |) | |
| Governing Distributed Generation |) | |
| and Other Related Matters. |) | |
| <hr/> |) | |

ORDER

By this Order,¹ the commission grants the request for authorization of Ben Davidian, Esq., to appear and participate as special counsel ("Special Counsel") for CHAPEAU, INC., dba BLUEPOINT ENERGY, STARWOOD HOTELS AND RESORTS WORLDWIDE, INC., and the HAWAII HEALTH SYSTEMS CORPORATION (collectively, the "BluePoint Energy Intervenors") in this proceeding, filed on

¹The other Parties in this proceeding are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, the "HECO Companies"); HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"); JW MARRIOTT IHILANI RESORT & SPA, WAIKOLOA MARRIOTT BEACH RESORT & SPA, MAUI OCEAN CLUB, and WAILEA MARRIOTT (collectively, the "Marriott Intervenors"); KAHALA SENIOR LIVING COMMUNITY, INC. ("Kahala SLC"); UNITED STATES COMBINED HEAT AND POWER ASSOCIATION ("USCHPA"); and 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 ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

April 24, 2007,² pursuant to HAR § 6-61-62(b)(2), provided that Special Counsel shall file proof of compliance with Rule 1.9 of the Rules of the Supreme Court of Hawaii ("RSCH Rule 1.9") within ten days from the date of this Order.

I.

Background

A.

Procedural Background

On December 28, 2006, the commission opened this investigative docket to review and address: (1) the proposed tariffs (standby service and interconnection) filed by the HECO Companies; and (2) Sections 111(d)(15) and 112(b)(5) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005, governing interconnection standards.³ The commission named HECO, HELCO, MECO, and the Consumer Advocate, as parties, and invited interested persons to timely move to intervene or participate in this proceeding.

²Request for Authorization to Appear as Special Counsel to Fully Participate in the Proceeding; Declaration of Attorney Ben Davidian; and Certificate of Service, filed on April 24, 2007, by the BluePoint Energy Intervenors (collectively, "Motion"). The BluePoint Energy Intervenors served copies of their Motion upon the other parties.

³Order No. 23171, filed on December 28, 2006. Docket No. 2006-0497 arises out of the commission's distributed generation investigative proceeding in In re Public Util. Comm'n, Docket No. 03-0371; specifically, the commission's directive that the electric utilities file proposed interconnection and standby service tariffs for the commission's review and approval.

On April 19, 2007, the commission: (1) granted the timely motions to intervene of HREA, the BluePoint Energy Intervenors, and the Marriott Intervenors; and (2) on its own motion, named Kahala SLC and USCHPA as intervenors in this proceeding.⁴

On April 24, 2007, the BluePoint Energy Intervenors filed their Motion, pursuant to HAR §§ 6-61-12(b)(2) and 6-61-41.

B.

BluePoint Energy Intervenors' Motion

The BluePoint Energy Intervenors request the commission's approval for Special Counsel to appear and participate as co-counsel with William W. Milks, Esq., throughout the course of this proceeding. In support of this request, Special Counsel, by written declaration, avers that he actively practices law in California, is in good standing with the State Bar of California, has never been subject to discipline by the State Bar of California or any other state bar or any state or federal court, agency, or commission, is temporarily associated with Mr. Milks, and will comply in all respects with Hawaii law and the commission's rules of practice and procedure. Special Counsel also avers that, upon information and belief, Mr. Milks is licensed to practice law in Hawaii and is a member in good standing of the State Bar of Hawaii.

⁴Order No. 23373, filed on April 19, 2007.

No responses to the Motion were filed by the other parties.⁵

II.

Discussion

HRS § 605-6 provides that the Supreme Court of Hawaii "may prescribe qualifications for admission to practice and rules for the government of [attorney] practitioners." In this regard, RSCH 1.9 states:

Rule 1.9 Pro hac vice appearance of counsel.

An attorney actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia who is not a resident of Hawaii may be permitted to associate himself or herself with a member or members of the Hawaii bar in the presentation of a specific case at the discretion of the presiding judge or judges.

An attorney allowed to appear pro hac vice shall, for each year the order is effective, pay to the Hawaii State Bar Association the annual Disciplinary Board fee required of all active Hawaii attorneys, provided that if the attorney is allowed to appear in more than one case, only one fee shall be paid. The Hawaii State Bar may assess a reasonable fee to register and collect this fee on an annual basis.

Failure to file proof of such payment in the record, within 10 days after entry of the order and in January of each subsequent year in which the case is pending, voids the order allowing the appearance pro hac vice.

RSCH Rule 19.

⁵The deadline to respond to the BluePoint Energy Intervenors' Motion was May 3, 2007, consistent with HAR §§ 6-61-21(e), 6-61-22, and 6-61-41(c).

HAR § 6-61-12 states in relevant part:

Appearance before the commission. (a) Any party to a proceeding before the commission may appear in person or may be represented by a partner or by an officer or authorized employee of a corporation, trust, or association.

(b) In all proceedings wherein pleadings are filed and a formal hearing is held involving the taking of testimony and formulation of a record, subject to review by the courts, except for those persons specified in subsection (a), no person may appear in a representative capacity other than the following:

.

(2) At the discretion of the commission, an attorney who is not authorized to practice law in the State but who associates with a member in good standing of the bar of the State in the presentation of a specific proceeding[.]

HAR § 6-61-12.

The granting of the BluePoint Energy Intervenors' Motion is subject to the commission's discretion. Based solely on the representations of Special Counsel and Mr. Milks, the commission grants the Motion, thus allowing Special Counsel to appear and participate as co-counsel with Mr. Milks throughout the course of this proceeding on behalf of the BluePoint Energy Intervenors pursuant to HAR § 6-61-12(b)(2), provided that Special Counsel shall file proof of compliance with RSCH Rule 1.9 within ten days from the date of this Order, and that the BluePoint Energy Intervenors, in accordance with their decision to present a unified position:⁶ (A) jointly file their pleadings (and shall not file any separate pleadings from the entities that

⁶See Motion to Intervene of the BluePoint Energy Movants; and Certificate of Service, filed on March 12, 2007; and Order No. 23373.

comprise the Bluepoint Energy Intervenors); and (B) designate a single representative or counsel that is authorized to bind or act on behalf of all three entities that comprise the Bluepoint Energy Intervenors.

III.

Orders

THE COMMISSION ORDERS:

1. The Motion filed by the Blue Point Energy Intervenors on April 24, 2007, for Special Counsel to appear and participate as co-counsel with Mr. Milks throughout the course of this proceeding, is granted, provided that Special Counsel shall file proof of compliance with RSCH Rule 1.9 within ten days from the date of this Order.

2. The BluePoint Energy Intervenors shall:
(A) jointly file their pleadings (and shall not file any separate pleadings from the entities that comprise the BluePoint Energy Intervenors); and (B) designate a single representative or counsel that is authorized to bind or act on behalf of all three entities.

DONE at Honolulu, Hawaii MAY 11 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

2006-0497.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23430 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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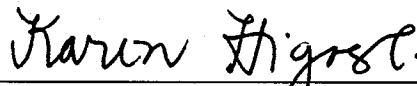
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Karen Higashi

DATED: MAY 11 2007