

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 Kauai Island Utility)
Cooperative and Other Related)
Matters.)
_____)

DOCKET NO. 2006-0498

ORDER NO. 23470

RECEIVED

2007 JUN -1 A 10:01

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

Filed May 31, 2007
At 2 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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2007 MAY 32 A 8:47

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

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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PUBLIC UTILITIES COMMISSION)	Docket No. 2006-0498
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Instituting a Proceeding to)	Order No. 23470
Investigate the Proposed Tariffs)	
Filed by Kauai Island Utility)	
Cooperative and Other Related)	
Matters.)	
_____)	

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 Entities") in this proceeding, filed on 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

¹The other Parties in this proceeding are KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"); HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"); the COUNTY OF KAUAI; MARRIOTT HOTELS SERVICES, INC., on behalf of KAUAI MARRIOTT RESORT & BEACH CLUB ("Kauai Marriott"); 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).

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 Entities (collectively, "Motion"); see also Amended Certificate of Service, filed on May 4, 2007, by the BluePoint Energy Entities. The BluePoint Energy Entities served copies of their Motion upon the other parties.

the Rules of the Supreme Court of Hawaii ("RSCH Rule 1.9") within ten days from the date of this Order.

I.

A.

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 KIUC; and (2) Sections 111(d)(15) and 112(b)(5) of the Public Utility Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005, governing interconnection standards.³ The commission named KIUC and the Consumer Advocate, as parties, and invited interested persons to timely move to intervene or participate in this proceeding.

On April 24, 2007, the BluePoint Energy Entities filed their Motion, pursuant to HAR §§ 6-61-12(b)(2) and 6-61-41. On May 8, 2007, the commission granted the timely motions to intervene of HREA, the County of Kauai, Kauai Marriott, and the BluePoint Energy Entities.⁴

³Order No. 23172, filed on December 28, 2006. Docket No. 2006-0498 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.

⁴Order No. 23422, filed on May 8, 2007.
2006-0498

B.

BluePoint Energy Entities' Motion

The BluePoint Energy Entities 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.

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

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.

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 Entities' 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 Entities 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. In addition, the BluePoint Energy Entities, in accordance with their decision to present a unified position,⁵ shall: (1) jointly file their pleadings (and shall not file any separate pleadings from the entities that comprise the BluePoint Energy Entities); and (2) designate a single representative or counsel that is authorized to bind or act on behalf of all three entities that comprise the BluePoint Energy Entities.

III.

Orders

THE COMMISSION ORDERS:

1. The Motion filed by the BluePoint Energy Entities 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

⁵See Motion to Intervene of the BluePoint Energy Entities; and Certificate of Service, filed on March 8, 2007; and Order No. 23422.

proof of compliance with RSCH Rule 1.9 within ten days from the date of this Order.

2. The BluePoint Energy Entities shall: (A) jointly file their pleadings (and shall not file any separate pleadings from the entities that comprise the BluePoint Energy Entities); 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 31 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

2006-0498.dhi

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23470 upon the following persons, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such person.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
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Certificate of Service

Page 2

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BEN DAVIDIAN, ESQ.
LAW OFFICES OF BEN DAVIDIAN
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Fair Oaks, CA 95628

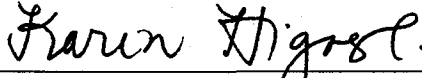
Counsel for CHAPEAU, INC., dba BLUEPOINT ENERGY; STARWOOD
HOTELS AND RESORTS WORLDWIDE, INC.; and HAWAII HEALTH
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Certificate of Service
Page 3

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KAUAI MARRIOTT RESORT & BEACH CLUB



Karen Higashi

DATED: MAY 31 2007