

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. 23533

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

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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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PUBLIC UTILITIES COMMISSION	)	Docket No. 2006-0498
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Instituting a Proceeding to	)	Order No. 23533
Investigate the Proposed Tariffs	)	
Filed by Kauai Island Utility	)	
Cooperative and Other Related	)	
Matters.	)	
_____	)	

ORDER

By this Order, the commission: (1) approves the Parties' waiver of hearing on the PURPA interconnection standards issue;<sup>1</sup> and (2) grants the Parties' request for an extension of time, from June 29, 2007 to August 29, 2007, to submit a stipulated procedural schedule for the interconnection portion of this proceeding, or for each of the Parties to submit its own proposed procedural schedule, in the event they are unable to agree on a joint procedural schedule; provided that the Parties

<sup>1</sup>The Parties in this proceeding are KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"); HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"); the COUNTY OF KAUAI; CHAPEAU, INC., dba BLUEPOINT ENERGY, STARWOOD HOTELS AND RESORTS WORLDWIDE, INC., and the HAWAII HEALTH SYSTEMS CORPORATION (collectively, the "BluePoint Energy Intervenors"); 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).

The term "PURPA interconnection standards," as used in this Order, refers to the federal interconnection standards set forth in Section 2621(d)(15) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005 ("EPACT"). See 16 U.S.C. § 2621(d)(15).

shall jointly file, by July 13, 2007, a statement outlining the reasons in support of their recommendation that the commission decline to adopt the PURPA interconnection standards.

I.

A.

Docket No. 03-0371

On August 8, 2006, the commission, in In re Public Util. Comm'n, Docket No. 03-0371, solicited comments on whether the commission should adopt, modify, or decline to adopt in whole or in part, the PURPA interconnection standards, including the extent to which the electric utilities have already met the PURPA interconnection standards.<sup>2</sup> On September 8, 2006, KIUC and the Consumer Advocate submitted comments on the PURPA interconnection standards issue.<sup>3</sup>

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

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<sup>2</sup>Docket No. 03-0371, Commission's letter, dated August 8, 2006.

<sup>3</sup>Docket No. 03-0371, KIUC's letter, dated September 8, 2006; and Consumer Advocate's letter, dated September 8, 2006.

(2) the PURPA interconnection standards issue.<sup>4</sup> The commission named KIUC and the Consumer Advocate as parties.<sup>5</sup>

Following public notice and the completion of a public hearing on the island of Kauai, the commission, on May 8, 2007, granted intervention to HREA, the County of Kauai, the BluePoint Energy Intervenors, and Kauai Marriott.<sup>6</sup> In addition, with respect to the filing of a stipulated procedural schedule for the interconnection tariff issue and the PURPA interconnection standards issue, the commission instructed:

For the interconnection tariff: (1) KIUC, by June 1, 2007, shall submit a report detailing the progress of the parties' efforts in reaching a consensus on KIUC's proposed interconnection tariff;<sup>7</sup> and (2) the parties, by June 8, 2007, shall submit a stipulated procedural schedule that identifies their agreed-upon issues, procedural steps, and schedule of proceedings for the interconnection portion of this proceeding.<sup>8</sup>

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<sup>4</sup>Order 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.

<sup>5</sup>Order No. 23172.

<sup>6</sup>Order No. 23422, filed on May 8, 2007.

<sup>7</sup>Footnote 39 of Order No. 23422, reads:

On March 1, 2007, KIUC filed the latest version of its proposed interconnection tariff with the commission, and served copies on: (1) the Consumer Advocate (i.e., the only other designated party at this time); and (2) the parties in Docket No. 03-0371. See KIUC's Transmittal Letter, dated March 1, 2007, with attachments.

<sup>8</sup>Footnote 40, of Order No. 23422, reads:

Specifically, whether the commission should adopt, modify, or decline to adopt in whole or in part, the Institute of Electrical and Electronic Engineers' Standard 1547 for Interconnecting Distributed Resources with Electric Power

. . . . .  
If the parties are unable to agree on a stipulated procedural schedule, each party shall submit its own proposed schedule that identifies the issues, procedural steps, and schedule for the interconnection portion of this proceeding, by June 8, 2007.

Order No. 23422, at 29 - 31 (footnotes and text therein retained).

On June 1, 2007, KIUC timely filed its status report, and on June 8, 2007, the Parties requested a three-week extension of time, from June 8, 2007 to June 29, 2007, to file their stipulated procedural schedule for the interconnection portion of

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Systems, including the extent to which the electric utilities have already met these standards. See 16 U.S.C. §§ 2621(d)(15) and 2622(b)(5).

Section 102(a) of PURPA states:

This chapter applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

16 U.S.C. § 2612(a). KIUC confirms that its total sales of electrical energy, at this juncture, do not exceed 500 million kilowatt-hours. Docket No. 03-0371, KIUC's Comments, dated September 8, 2006, Attachment 1, at 1 n.1. Nonetheless, KIUC, pursuant to the commission's request, stated "its position on this matter as to whether KIUC should be required to adopt the IEEE Standard 1547." Docket No. 03-0371, KIUC's Comments, dated September 8, 2006, Attachment 1, at 1 n.1. The Consumer Advocate, likewise, submitted its comments on the PURPA interconnection standards issue on September 8, 2006. Docket No. 03-0371, Consumer Advocate's Comments, dated September 8, 2006.

In proposing a procedural schedule, the parties should remain cognizant that the deadline for commission action on the PURPA interconnection standards issue is on or about August 7, 2007. (emphasis added)

this proceeding. On June 15, 2007, the commission approved the Parties' request.<sup>9</sup>

By letter dated June 28, 2007, KIUC, on behalf of the Parties, requests a further extension of time, from June 29, 2007 to August 29, 2007, to submit their stipulated procedural schedule for the interconnection portion of this proceeding. In support of their request, the Parties state that they: (1) have engaged in extensive discussions to collaborate and better understand the details of KIUC's proposed interconnection tariff, and acknowledge that progress has been made in possibly resolving or simplifying the interconnection issues; and (2) will continue to work collaboratively to reach consensus (full or partial) on the interconnection issues, and may convene additional meetings and discussions, as appropriate, to assist in facilitating settlement efforts.

With respect to the PURPA interconnection standards issue, the Parties represent:

Footnote 40 of Order No. 23422 also reminded the parties that, in proposing a procedural schedule, the two-year deadline for Commission action on matters governing interconnection with respect to Sections 111(d)(15) and 112(b)(5) of [PURPA], as amended by the [EPACT], is on or about August 7, 2007. In that connection, consistent with the position of the applicable parties in Docket No. 2006-0497, the parties in this proceeding agree that the Commission should decline to adopt the PURPA interconnection standards. The parties in this proceeding concur that KIUC's proposed interconnection tariff ultimately approved by the Commission as a result of this proceeding will address interconnection matters specific to Hawaii in a comprehensive manner and allow the Commission to be in compliance with the PURPA interconnection standards. This will allow the Commission to meet

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<sup>9</sup>Commission's letter, dated June 15, 2007.

the two-year deadline to act on the PURPA interconnection sections referenced above, while allowing the parties sufficient time to address the interconnection issues in this proceeding.

KIUC's letter, dated June 28, 2007, at 2, n.3.

## II.

### Discussion

Sections 2621 and 2622 of PURPA, as amended by the EPACT, state in relevant part:

**§ 2621. Consideration and determination respecting certain ratemaking standards**

**(a) Consideration and determination**

Each state regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) of this section and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this chapter. For purposes of such consideration and determination in accordance with subsections (b) and (c) of this section, and for purposes of any review of such consideration and determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

**(b) Procedural requirements for consideration and determination**

(1) The consideration referred to in subsection (a) of this section shall be made after public notice and hearing. The determination referred to in subsection (a) of this section shall be -

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 2622(a) of this title, and in sections 2631 and 2632 of this title, the procedures for the consideration and determination referred to in subsection (a) of this section shall be those established by the State regulatory authority or the nonregulated electric utility.

**(c) Implementation**

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law -

(A) implement any such standard determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) of this section which is determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

.....

**(d) Establishment**

The following Federal standards are hereby established:

.....



### **(15) Interconnection**

Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term "interconnection service" means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers; IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

### **§ 2622. Obligations to consider and determine**

. . . . .

#### **(b) Time limitations**

. . . . .

**(5)(A)** Not later than 1 year after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 2621(d) of this title .

**(B)** Not later than two years after August 8, 2005, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with

respect to each standard established by paragraph (15) of section 2621(d) of this title.

16 U.S.C. §§ 2621 and 2622 (boldface in original).

Order No. 23422 initially required the Parties to submit their proposed stipulated procedural schedule for the interconnection portion of this proceeding by June 8, 2007, in order to provide the commission with sufficient time to address the PURPA interconnection standards issue by the federally-imposed deadline of August 7, 2007. Thereafter, the commission granted the Parties' request for an extension of time, until June 29, 2007, to comply with the commission's directive. Now, the Parties request a further extension of time, until August 29, 2007, to submit said proposed stipulated procedural schedule. Moreover, consistent with the commission's intent and directive to prioritize the PURPA interconnection standards issue, the Parties jointly recommend that the commission decline to adopt the PURPA interconnection standards.

Here, the commission finds that the Parties, by stating their joint, unanimous recommendation, together with their request to submit the proposed stipulated procedural schedule by August 29, 2007 (following the expiration of the federally-imposed August 7, 2007 deadline for commission action on the PURPA interconnection standards issue), voluntarily and intentionally waive any hearing on the PURPA interconnection standards issue.<sup>10</sup> Under the circumstances, the commission

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<sup>10</sup>See In re Public Util. Comm'n, Docket No. 2006-0497, Order No. 23521, filed on June 28, 2007 (the commission approved the parties' voluntary and intentional waiver of hearing on the PURPA interconnection standards issue, based on the Parties' actions

approves the Parties' voluntary and intentional waiver of hearing on the PURPA interconnection standards issue.<sup>11</sup>

Consistent with HAR § 6-61-23(a)(1),<sup>12</sup> the commission also finds good cause to grant the Parties' request for an extension of time, from June 29, 2007 to August 29, 2007, to submit their stipulated procedural schedule for the interconnection portion of this proceeding, or for each of the Parties to submit its own proposed procedural schedule, in the event they are unable to agree on a joint procedural schedule; provided that the Parties shall jointly file, by July 13, 2007, a

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and agreements); cf. In re Young Bros., Ltd., Docket No. 2006-0396, Order No. 23311, filed on March 16, 2007 (the commission approved the parties' voluntary and intentional waiver of the six-month deadline for the commission's issuance of its final order, based on the procedural dates proposed by the parties in their stipulated regulatory schedule); and In re Kaupulehu Water Co., Docket No. 05-0124, Order No. 21958 (the commission approved the parties' waiver of the six-month deadline to issue a proposed decision and order, based on the procedural dates proposed by the parties in their stipulated prehearing order).

<sup>11</sup>Consistent with PURPA, as amended by the EPACT, issues involving the adoption or non-adoption of time-based metering and communications standards are also pending before the commission in In re Hawaii Elec. Light Co., Inc., Docket No. 05-0315, HELCO's 2006 test year rate case. See Docket No. 05-0315, Order No. 22903, filed on September 28, 2006. On May 3, 2007, the commission approved the parties' stipulation to waive the evidentiary hearing in Docket No. 05-0315. See Docket No. 05-0315, Order No. 23411, filed on May 3, 2007; see also Kenneth Rose & Karl Meeusen, Reference Manual and Procedures for Implementation of the "PURPA Standards" in the Energy Policy Act of 2005, Mar. 22, 2006, at 8 (PURPA, as amended by the EPACT, "appears to allow a range of consideration of the federal standards by state commissions and utilities," including a "paper" hearing, where the state commission makes a determination based on the written filings from interested persons).

<sup>12</sup>Pursuant to HAR § 6-61-23(a)(1), the commission for good cause shown may order a period enlarged if a written request is made before the expiration of the period originally prescribed.

statement outlining the reasons in support of their recommendation that the commission decline to adopt the PURPA interconnection standards.<sup>13</sup> Commission action on the PURPA interconnection standards issue will then follow.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. The Parties' voluntary and intentional waiver of hearing on the PURPA interconnection standards issue is approved.

2. The Parties' request, dated June 28, 2007, for an extension of time, from June 29, 2007 to August 29, 2007, to submit their stipulated procedural schedule that identifies their agreed-upon issues, procedural steps, and schedule of proceedings for the interconnection portion of this proceeding, or for each of the Parties to submit its own proposed procedural schedule, in the event they are unable to agree on a joint procedural schedule, is granted; provided that the Parties shall jointly file, by July 13, 2007, a statement outlining the reasons in support of their recommendation that the commission decline to adopt the PURPA interconnection standards.

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<sup>13</sup>See 16 U.S.C. § 2621(c)(2) (if the State authority declines to implement any standard established by subsection (d), such authority shall state in writing the reasons thereof).

DONE at Honolulu, Hawaii JUL - 2 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.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23533 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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DATED: JUL - 2 2007