

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 DENYING MOTIONS TO STAY THE
DECISION AND ORDER FILED ON JUNE 24, 2008, AND
SCHEDULING A HEARING ON THE MOTIONS FOR RECONSIDERATION

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

PUBLIC UTILITIES
COMMISSION

2008 JUL 18 A 10:33

FILED

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ORDER DENYING MOTIONS TO STAY THE
DECISION AND ORDER FILED ON JUNE 24, 2008, AND
SCHEDULING A HEARING ON THE MOTIONS FOR RECONSIDERATION

By this Order, the commission: (1) denies the motions to stay the Decision and Order, filed on June 24, 2008 ("Decision and Order"); and (2) sets a hearing on the motions seeking the reconsideration of said Decision and Order.¹

I.

Background

On June 24, 2008, the commission approved in part and denied in part the Settlement Agreement, attached as Exhibit 1 to

¹The Parties in this proceeding are: (1) KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"); (2) HAWAII RENEWABLE ENERGY ALLIANCE; (3) the COUNTY OF KAUAI; (4) CHAPEAU, INC., dba BLUEPOINT ENERGY, STARWOOD HOTELS AND RESORTS WORLDWIDE, INC., and the HAWAII HEALTH SYSTEMS CORPORATION (collectively, the "BluePoint Energy Intervenors"); (5) MARRIOTT HOTELS SERVICES, INC., on behalf of KAUAI MARRIOTT RESORT & BEACH CLUB ("Kauai Marriott"); and (6) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, 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 Supplemental Stipulation jointly filed by the Parties on April 14, 2008.² As a result, the commission held that KIUC shall, until the conclusion of its next general rate case proceeding: (1) retain its monthly standby service charge of \$5.00 per kW of standby demand for non-renewable projects and facilities; and (2) remove its existing standby service charge for renewable energy systems and projects.

On July 3, 2008, two motions were filed seeking the reconsideration and stay of the commission's Decision and Order, by Kauai Marriott³ and the BluePoint Energy Intervenors,⁴ respectively. In addition, Kauai Marriott and the BluePoint Energy Intervenors request oral argument on their respective motions. On July 9, 2008, KIUC filed its revised standby service tariff sheets, in compliance with Ordering Paragraph No. 5 of the commission's Decision and Order, and on July 10, 2008, the BluePoint Energy Intervenors filed a Joinder to Kauai Marriott's motion for reconsideration and stay.

²Supplemental Stipulation Requesting Approval of Parties' Revised Standby Proposal (Exhibit 1) in Lieu of Stipulation and Proposed Stipulated Procedural Order/Schedule Filed on November 30, 2007; Exhibit 1, Settlement Agreement (hereinafter referred to as the "Revised Standby Proposal"); and Certificate of Service, filed on April 14, 2008 (collectively, "Supplemental Stipulation"). Throughout the Supplemental Stipulation, the Parties utilize the term Revised Standby Proposal in referring to their Settlement Agreement. Hence, the commission likewise utilizes the term Revised Standby Proposal in this Order.

³Kauai Marriott's Motion for Reconsideration and Modification, Suspension, or Vacation of Decision and Order, Memorandum in Support Thereof, Request for Oral Argument, Motion for Stay; and Certificate of Service, filed on July 3, 2008.

⁴'BluePoint Energy Intervenors' Motion for Reconsideration and Request for Oral Argument; and Certificate of Service, filed on July 3, 2008.

II.

Discussion

A.

Motions for Stay

HAR §§ 6-61-137, 6-61-138, and 6-61-140 state:

§6-61-137 Motion for reconsideration or rehearing. A motion seeking any change in a decision, order, or requirement of the commission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall . . . set[] forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

§6-61-138 Effect of filing. (a) The filing of a motion for reconsideration or rehearing shall not stay a commission decision and order. However, if a motion for a stay accompanies the motion, the commission shall act on the motion for a stay promptly. If a stay is granted, the stay shall remain in effect until disposal of the motion for reconsideration.

(b) Notwithstanding the foregoing, pursuant to section 271-32(b), HRS, a commission order granting a change in motor carrier rates shall be automatically stayed upon the filing of a motion for reconsideration of the order. The stay shall remain in effect until the earlier of: the date the commission renders its decision on the motion for reconsideration or the twentieth day after the motion is filed. The commission may set aside this automatic stay for good cause shown.

§6-61-140 Replies to motions. The commission may allow replies to a motion for rehearing or reconsideration or a stay, if it deems those replies desirable or necessary.

HAR §§ 6-61-137, 6-61-138 (emphasis added), and 6-61-140.

Here, with respect to the motions for stay, the commission notes that by its Decision and Order, KIUC's existing monthly standby service charge of \$5.00 per kW for standby demand will remain in place for all distributed generation customers (excluding renewable energy systems and projects, which are exempt from the \$5.00 monthly charge) until the completion of KIUC's general rate case proceeding, and the commission intends to adjudicate the motions for reconsideration well before the completion of KIUC's next general rate case proceeding. Thus, the granting of a stay will appear to have no practical effect upon the movants, as the \$5.00 rate will continue to apply to movants whether or not a stay is issued herein. Conversely, a stay will delay the implementation of "the exemption of renewable energy systems and projects from the \$5.00 monthly charge."⁵ For these reasons, the commission denies the motions to stay the commission's Decision and Order.

B.

Motions for Reconsideration

The commission will schedule a hearing on the motions for reconsideration, as follows:

August 20, 2008
9:30 a.m.
Public Utilities Commission
Hearing Room, #B-3
Kekuanaoa Building
465 South King Street
Honolulu, Hawaii

⁵Decision and Order, at 28.

Pursuant to HAR § 6-61-140, the commission will accept any replies to the motions for reconsideration, provided that such replies are filed with the commission by July 18, 2008.⁶ Unless ordered otherwise, the commission will not accept any filings by the movants that respond to any replies, or which otherwise supplements the information set forth in the motions for reconsideration.

III.

Orders

THE COMMISSION ORDERS:

1. The motions to stay the commission's Decision and Order, filed on June 24, 2008, are denied.

2. A hearing on the motions for reconsideration, filed on July 3, 2008, is scheduled for August 20, 2008, 9:30 a.m., at the commission's hearing room (465 South King Street, #B-3, Kekuanaoa Building, Honolulu). Unless approved by the commission in advance of the hearing, each of the Parties shall appear and participate in the hearing.

3. The commission will accept any replies to the motions for reconsideration, provided that such replies are filed with the commission by July 18, 2008. Unless ordered otherwise, the commission will not accept any filings by the movants that respond to any replies, or which otherwise supplements the information set forth in the motions for reconsideration.

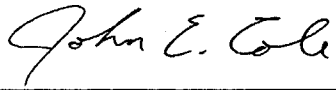
⁶See Commission's correspondence, dated July 11, 2008.


DONE at Honolulu, Hawaii

JUL 18 2008

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:



Michael Azama
Commission Counsel

2006-0498.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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Certificate of Service

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Certificate of Service

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