

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
Regarding Integrated Resource)
Planning)
_____)

DOCKET NO. 2007-0084

ORDER DECLINING TO ADOPT PURPA STANDARDS
ON FUEL DIVERSITY AND FOSSIL FUEL GENERATION EFFICIENCY

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HAWAIIAN ELECTRIC COMPANY, INC.)	Docket No. 2007-0084
Regarding Integrated Resource)	
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ORDER DECLINING TO ADOPT PURPA STANDARDS
ON FUEL DIVERSITY AND FOSSIL FUEL GENERATION EFFICIENCY

By this Order, the commission declines to adopt, for HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"),¹ the federal standards set forth in Sections 111(d)(12) and 111(d)(13) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005 ("EPACT"), regarding fuel diversity and fossil fuel generation efficiency.

I.

Background

By Order No. 23312, filed on March 21, 2007, in Docket No. 03-0253 ("Order No. 23312"), which concluded HECO's third integrated resource planning process, the commission ordered, among other things, that HECO file its fourth integrated

¹HECO is a Hawaii corporation and a public utility as defined by Hawaii Revised Statutes ("HRS") § 269-1. HECO was initially organized under the laws of the Kingdom of Hawaii on or about October 13, 1891. HECO is engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Oahu in the State of Hawaii.

resource plan ("IRP-4") by June 30, 2008.² The commission also stated that "[t]he consideration of the fuel diversity and fossil fuel generation efficiency issues mandated by Sections 111(d)(12) and 111(d)(13) of PURPA, as amended by [EPACT], [were] deferred to HECO's IRP-4 proceeding."³

On March 29, 2007, the commission filed Order No. 23328 in this docket, initiating HECO's IRP-4 planning process in accordance with Section III.C.1 of the IRP Framework, as modified.⁴ The parties to the docket include the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to all commission dockets, pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62; Life of the Land;⁵ Hawaii Renewable Energy Alliance ("HREA"); Honolulu Seawater Air Conditioning, LLC; and OCEES International, Inc.⁶ (collectively, "the Parties").

²HECO's letter to the commission, dated June 3, 2008, requested an extension of time from June 30, 2008 to September 30, 2008 in which to file its fourth IRP. The commission, by letter dated June 19, 2008, granted the request. Therefore, HECO's IRP-4 is due on September 30, 2008.

³Order No. 23312, at Ordering Paragraph No. 6.

⁴The IRP Framework was established in Decision and Order No. 11523, filed on March 12, 1992, as amended by Decision and Order No. 11630, filed on May 22, 1992, in Docket No. 6617. The framework was further modified by Decision and Order No. 22490, filed on May 26, 2006, in Docket No. 05-0075.

⁵Order No. 23312, at Ordering Paragraph No. 5.

⁶ Order No. 23455, filed on May 23, 2007, in this docket.

Sections 111(d)(12) and 111(d)(13) of PURPA, as amended by EPACT, require the commission to consider and make a determination of the following matters governing fuel diversity and fossil fuel generation efficiency:⁷

(12) FUEL SOURCES - Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

(13) FOSSIL FUEL GENERATION EFFICIENCY - Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

16 U.S.C. § 2621(d)(12) - (13). See also 16 U.S.C. § 2622(b)(3)(A).

Section 112(b)(3)(B) of PURPA, as amended by EPACT, requires the commission to complete its consideration and make its determination regarding each standard established by paragraphs (11) through (13) of Section 111(d), of PURPA, no later than three years after the enactment of the law (i.e., by August 8, 2008).⁸

⁷Section 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).

⁸See 16 U.S.C. § 2622(b)(3)(B).

To address the above, by letter dated June 30, 2008, the commission requested that the Parties provide their positions, if any, on whether the commission should adopt, modify, or decline to adopt those standards.⁹

On July 14, 2008, HECO responded that it believed that the commission should decline to adopt, in whole or in part, the federal requirements ("HECO's Comments").¹⁰ HECO states:

HECO plans to address matters governing fuel diversity and fossil fuel generation efficiency in its HECO IRP-4 report, which is scheduled to be filed no later than September 30, 2008.

. . . .

In Decision and Order No. 23977, dated January 24, 2008, in Docket No. 04-0046, the [c]ommission [previously ruled with regard to HELCO,] " . . . that adoption of the two federal standards on fuel diversity and fossil fuel generation efficiency is unnecessary" and ". . . the commission declines to adopt the federal standards on fuel diversity and fossil fuel generation efficiency."

. . . .

HECO respectfully requests that the [c]ommission find for HECO, as it did for HELCO in Docket No. 04-0046, that adoption of the two federal standards on fuel diversity and fossil fuel generation efficiency is unnecessary.

Letter dated July 14, 2008, from HECO to the commission, at 2. HECO also referenced a letter from HECO to the commission, filed on January 31, 2007, in Docket No. 03-0253 (regarding IRP-3). HECO states:

HECO's IRP-3 Plan, filed October 28, 2005, addressed in a comprehensive manner matters governing fuel diversity and fossil fuel

⁹Letter dated June 30, 2008, from the commission to the Parties.

¹⁰HECO's Comments, at 2.

generation efficiency. For example, Section 4, Objectives, of the IRP-3 Plan had as objective 4.6 Energy Security and Sustainable Future, and included subparts 4.6.1, Ability to Utilize Different Types of Fuel, 4.6.3, System Fossil Fuel Efficiency, 4.6.5, Energy Produced by Commercially Available Indigenous and Renewable Resources, 4.6.6, Renewable Portfolio Percentage (Oahu only), and 4.6.7 Fuel Oil Consumption. These objectives were assessed in a quantitative manner, with the exception of subpart 4.6.1 which was assessed in a qualitative manner.

...

Further, Section 269-92 of the [HRS] requires that each electric utility in the state comply with certain renewable portfolio standards ["RPS"] by certain dates. Since there is already a state statute that addresses a specific form of fuel diversity, there is no need to adopt an additional and separate standard that attempts to address fuel diversity in a more general sense.

Letter dated January 31, 2007, from HECO to the commission, at 3. Additionally, HECO notes that the fuel efficiency standard cannot be applied to the fossil-fuel fired generation owned by independent power producers.¹¹

On July 14, 2008, HREA submitted its comments regarding the application of the fuel diversity and fossil fuel generation efficiency standards ("HREA's Comments"). In brief, HREA supports the adoption of the standards, based on the belief that: 1) the overall goals "comport with our overall state goals to decrease our use of imported energy, and the goals of our [IRP] process, which now also incorporates our [RPS];"¹² 2) HECO, HELCO and Maui Electric Company ("MECO"), are already implementing fuel diversity alternatives as a result of

¹¹Letter dated January 31, 2007, from HECO to the commission.

¹²HREA's Comments, at 3.

the IRP objectives, as well as investigating additional fuel diversity alternatives;¹³ and 3) "[i]t is not clear the extent to which HECO, HELCO, and MECO are looking at improving the efficiency of their conventional generators. For example, HREA encourages HECO, HELCO and MECO to evaluate the potential and implement, as appropriate, heat recovery technologies to improve the efficiency of their existing conventional generators."¹⁴

On July 15, 2008, the Consumer Advocate submitted a letter to the commission ("Consumer Advocate's Comments"), stating its position regarding PURPA. The Consumer Advocate states:

. . . one size fits all federal standards are not the optimal method to achieving objectives such as energy efficiency and implementation of renewable resources. Rather, utility specific objectives that are developed and refined in periodic [IRP] processes are preferable. In this manner, a utility's specific circumstances (such as its specific existing generation mix and opportunities to acquire renewable resources through mechanisms such as competitive bidding) and State requirements and policies (such as standards mandated in the [RPS] law set forth in [HRS] § 269-92, policies established in HRS § 226-18; and goals and objectives mandated by the Commission in [the] Framework for [IRP] and in proceedings such as the Energy Efficiency Docket) can be taken into consideration.

[HECO's IRP-4] is expected to address in a comprehensive manner matters governing fuel diversity and fossil fuel generation

¹³HREA's Comments, at 3.

¹⁴HREA's Comments, at 3.

efficiency since the IRP must comply with government laws such as the objective of the State's Legislature as set forth in HRS § 228-16.

Consumer Advocate's Comments, at 1-2 (footnote omitted).
The Consumer Advocate also notes that the commission has previously declined to adopt the federal standards with regard to HELCO.¹⁵

The [IRP] process is the appropriate mechanism for determining the extent to which, and timing as to how a utility will minimize its dependence on one fuel source and to ensure that the electricity energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies. The [IRP] process is also the appropriate mechanism for determining the actions deemed necessary to increase the efficiency of a utility's fossil fuel generation. These objectives can appropriately be set forth as a goal for the IRP and the actions for meeting the goal can be evaluated in the [IRP] process, consistent with the [c]ommission's [IRP Framework].

Consumer Advocate's Comments, at 3.

II.

Discussion

HECO requests that the commission "find for HECO, as it did for HELCO in Docket No. 04-0046, that adoption of the two federal standards on fuel diversity and fossil fuel generation efficiency is unnecessary."¹⁶ HECO intends to address matters governing fuel diversity and fossil fuel generation

¹⁵Consumer Advocate's Comments, at 2.

¹⁶HECO's Comments, at 2.

efficiency in its HECO IRP-4, which is scheduled to be filed on September 30, 2008.¹⁷ HECO's position is that utility specific objectives developed and refined in periodic IRP processes are preferable in that specific existing generation mix and opportunities to acquire renewable resources through competitive bidding and State requirements and policies such as the RPS law, and other goals and objectives mandated by the commission can be taken into consideration.¹⁸ For these reasons, HECO contends that it is unnecessary or infeasible for the commission to adopt these federal standards at this time. Thus, HECO recommends that the commission decline to adopt these federal standards in their entirety.

The Consumer Advocate also recommends that the commission decline to adopt the federal standards for HECO. The Consumer Advocate states that this position is consistent with the commission's determination for HELCO in HELCO's IRP proceeding.¹⁹ In HELCO's IRP proceeding, the commission stated that "adoption of the two federal standards on fuel diversity and fossil fuel generation efficiency is unnecessary. As pointed out by HELCO, the electric utilities are all involved in

¹⁷HECO's Comments, at 2.

¹⁸Letter dated January 31, 2007, from HECO to the commission, at 2.

¹⁹See In re Hawaii Electric Light Company, Inc., Docket No. 04-0046, Decision and Order No. 23977, filed on January 24, 2008.

formal IRP processes where fuel diversity and fossil fuel generation efficiency are considered."²⁰

The commission notes that HREA's concerns are not wholly contradictory to HECO and the Consumer Advocate's positions. HREA acknowledges: 1) the importance of the goals of the IRP process which incorporates the RPS law; and 2) HECO, HELCO and MECO are already implementing fuel diversity alternatives as a result of the IRP objectives, as well as investigating additional fuel diversity alternatives.²¹ With regard to HREA's remaining concern that HECO, HELCO, and MECO look at improving the efficiency of their conventional generators, such issue may be included in the IRP and this issue alone does not warrant a separate plan.²²

Upon review, the commission concurs with HECO and the Consumer Advocate that adoption of the two federal requirements on developing plans related to fuel diversity and fossil fuel generation efficiency is, at this time, unnecessary. Under the circumstances, the consideration of these federal standards as part of HECO's IRP-4, which is currently scheduled to be filed on September 30, 2008, appears to be appropriate. Accordingly, for the reasons stated above, the commission declines to adopt the federal standards on fuel diversity and fossil fuel generation efficiency.

²⁰Consumer Advocate's Comments, at 2.

²¹HREA's Comments, at 3.

²²HREA's Comments, at 3.

III.

Orders

THE COMMISSION ORDERS:


The commission declines to adopt, for HECO, the two federal standards on fuel diversity and fossil fuel generation efficiency.

DONE at Honolulu, Hawaii AUG - 8 2008.

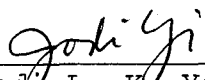
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


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2007-0084.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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