

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.) DOCKET NO. 2007-0346
For Approval of a Biodiesel Supply)
Contract with Imperium Services,)
LLC, and to include Contract)
Costs in HECO's Energy Cost)
Adjustment Clause.)
_____)

PREHEARING ORDER AND ORDER DENYING LIFE OF THE LAND'S MOTION
FOR AN ORDER COMPELLING AN ANSWER, FILED ON SEPTEMBER 25, 2008

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

PUBLIC UTILITIES
COMMISSION

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FILED

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In the Matter of the Application of)	
HAWAIIAN ELECTRIC COMPANY, INC.)	Docket No. 2007-0346
For Approval of a Biodiesel Supply)	
Contract with Imperium Services,)	
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PREHEARING ORDER AND ORDER DENYING LIFE OF THE LAND'S MOTION
FOR AN ORDER COMPELLING AN ANSWER, FILED ON SEPTEMBER 25, 2008

By this Order, the commission sets forth the agreements reached and the actions taken at the prehearing conference held on September 30, 2008, in preparation for the evidentiary hearing scheduled to commence on October 6, 2008.

In addition, the commission denies LIFE OF THE LAND's ("LoL") Motion for an Order Compelling An Answer, filed on September 25, 2008 ("LoL's Motion").

I.

Prehearing Order

On September 30, 2008, the commission held a prehearing conference pursuant to Hawaii Administrative Rules ("HAR") § 6-61-36, with representatives from HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"),¹ the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF

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,

COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"),² and LoL. HECO, the Consumer Advocate, and LoL are collectively referred to as the "Parties."

Pursuant to HAR § 6-61-37, and consistent with the agreements reached and actions taken at the prehearing conference, and unless modified otherwise by the commission, the following terms shall control the evidentiary hearing:

1. Each party may make a brief opening statement of no more than five minutes. Unless directed otherwise by the commission, opening statements, if any, shall be in the following order: (1) HECO; (2) the Consumer Advocate; and (3) LoL.

2. HECO shall present its witnesses first, followed by the Consumer Advocate and finally, LoL.

3. The witness list was confirmed, as listed in Exhibit A, attached hereto.

4. At the close of witnesses, HECO shall have the option to call rebuttal witnesses as necessary. If HECO does call rebuttal witnesses, the other parties may cross examine any rebuttal witnesses, and will also be entitled to call further rebuttal witnesses as necessary. If HECO does not call rebuttal witnesses, then no other party may do so.

5. Each witness may briefly summarize their pre-filed written testimonies. Summaries shall be no more than five (5)

transmission, distribution, and sale of electricity on the island of Oahu in the State of Hawaii.

²The Consumer Advocate is an ex officio party to all dockets before the commission pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

minutes each. No "friendly" cross examination will be allowed. The Parties have agreed that several witnesses' testimonies and their supporting exhibits are accepted into the record without the witness being present and that cross-examination of these witnesses is waived.³ Thus, by agreement, these witnesses will not testify at the hearing, as summarized in Exhibit A, attached hereto.

6. If any party will be posing any questions in areas previously determined to be confidential pursuant to Protective Order No. 24145, that party must notify the commission before doing so. Similarly, the Parties are responsible for notifying and cautioning their witnesses with regard to the matters deemed confidential pursuant to Protective Order No. 24145. Each party must notify the commission prior to the party's witness disclosures or otherwise referencing material protected by Protective Order No. 24145.

7. Any party intending to introduce an exhibit not previously filed must provide a copy of the exhibit to the other parties by 4:30 p.m., Thursday, October 2, 2008. Any party objecting to a new exhibit must file its objection by 4:30 p.m., Friday, October 3, 2008.

8. The Parties may present closing statements of no more than ten (10) minutes. By agreement, the order for closing arguments will be the Consumer Advocate, LoL, then HECO.

³See Letter filed September 23, 2008, from the Parties to the commission; Letter filed September 29, 2008 from HECO and the Consumer Advocate to the commission; and Letter filed September 30, 2008 from the Parties to the commission.

9. The commission estimates that this hearing will be completed in no more than two (2) days.

10. Simultaneous Proposed Findings of Fact / Conclusions of Law are to be filed with the commission within three (3) weeks after the transcripts are filed. Comments on the Proposed Findings of Fact / Conclusions of Law are to be filed with the commission within two (2) weeks of the filing of the Proposed Findings of Fact / Conclusions of Law.

II.

LoL's Motion for An Order Compelling An Answer

On September 25, 2008, LoL filed a Motion for an Order Compelling An Answer seeking an order from the commission requiring the Consumer Advocate to provide information regarding its expert, James S. Grant. Specifically, LoL requests "all of the biofuel conferences attended, talks given, papers written relating to biofuels within the last ten years."⁴

On September 26, 2008, the Consumer Advocate filed its Memorandum in Opposition to LoL's Motion ("Consumer Advocate's Memorandum in Opposition"). The Consumer Advocate's position is that LoL is not permitted to submit Rebuttal Information Requests ("RIRs") to any party except HECO; and if the Consumer Advocate were to respond to any RIRs, such response would be due on

⁴LoL's Motion, at 2.

October 2, 2008.⁵

The commission agrees with the Consumer Advocate's position that the procedural schedule agreed to by the Parties, including LoL, required LoL to submit its information requests to the Consumer Advocate by August 12, 2008. That procedural schedule as well as the initial procedural schedule set by the commission, does not allow RIRs to any party except HECO. Accordingly, LoL's Motion is denied.

III.

Order

THE COMMISSION ORDERS:

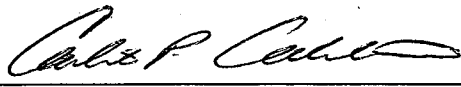
1. The terms set forth in this Order shall govern the remainder of this proceeding, unless modified or ordered otherwise by the commission.
2. LoL's Motion for An Order Compelling An Answer is denied.

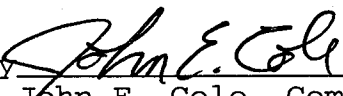
⁵Consumer Advocate's Memorandum in Opposition, at 4.

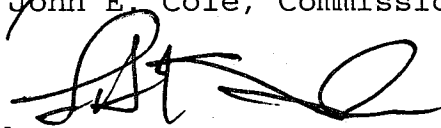
DONE at Honolulu, Hawaii

OCT - 3 2008

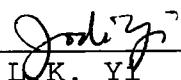
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Jodi L.K. Yi
Commission Counsel

2007-0346.ps

Public Utilities Commission
State of Hawaii

Docket No. 2007-0346 (HECO's Biofuel Contract)
Hearing Agenda and Schedule of Witnesses

October 6-7, 2008

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
HECO		Opening Statement	
Consumer Advocate		Opening Statement	
LoL		Opening Statement	
HECO	Robert Alm (RT-1)	Direct Examination	
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	
HECO		Re-Direct Examination	
HECO	Ronald Cox (RT-2)	Direct Examination	
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	
HECO		Re-Direct Examination	
HECO	David Waller (RT-3)	Direct Examination	
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	
HECO		Re-Direct Examination	

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
HECO	Leland Tong (RT-4)	Direct Examination	
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	
HECO		Re-Direct Examination	
HECO	David Leonard (RT-5)	Direct Examination	
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	
HECO		Re-Direct Examination	
HECO	Robert Isler (RT-6)	Direct Examination	Waived. Will not be present at hearing.
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	Waived.
HECO	Peter Young (RT-7)	Direct Examination	Waived. Will not be present at hearing.
Consumer Advocate		Cross Examination	Waived.
LoL		Cross Examination	Waived.
Consumer Advocate	James Grant (CA-T-1)	Direct Examination	
HECO		Cross Examination	Waived.

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
LoL		Cross Examination	
Consumer Advocate		Re-Direct Examination	
LoL	Henry Curtis (LOL-T-1)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Robert King (LOL-T-2)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Kelly King (LOL-T-3)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. William Steiner (LOL-T-4)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. David Rezachek (LOL-T-5)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
Consumer Advocate		Cross Examination	Waived.
LoL	Robert Parsons (LOL-T-6) & (LOL-ST-3) combined	Direct Testimony	
HECO		Cross Examination	
Consumer Advocate		Cross Examination	
LoL		Re-Direct Examination	
LoL	Henry Curtis (LOL-T-7)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Mililani Trask (LOL-T-8)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. Charles Burrows (LOL-T-9)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Charmaine Crockett	Direct Testimony	Waived. Will not testify at

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
	(LOL-T-10)		hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Henry Curtis (LOL-T-11)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. Lorrin Pang (LOL-T-12)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Henry Curtis (LOL-T-13)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Henry Curtis (LOL-T-14)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Henry Curtis (LOL-T-15)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
Consumer Advocate		Cross Examination	Waived.
LoL	Miwa Tamanaha (LOL-T-16)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. Stephanie Fried (LOL-T-17)	Direct Testimony	
HECO		Cross Examination	
Consumer Advocate		Cross Examination	
LoL		Re-Direct Examination	
LoL	Henry Curtis (LOL-T-18)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Henry Curtis (LOL-T-19)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Henry Curtis (LOL-ST-1)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
Consumer Advocate		Cross Examination	Waived.
LoL	Joshua Cooper (LOL-ST-2)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Rob Parsons (LOL-ST-3)	Combined with (LOL-T-6 above)	See above
LoL	Richard "Dick" Mayer (LOL-ST-4)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. Paul "Doc" Berry (LOL-ST-5)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
LoL	Dr. Tad Patzek (LOL-ST-6)	Direct Testimony	Waived. Will not testify at hearing.
HECO		Cross Examination	Waived.
Consumer Advocate		Cross Examination	Waived.
HECO		Reserved Rebuttal Testimony	

<u>Party</u>	<u>Witness</u>	<u>Type</u>	<u>Cross Examination Waived / Not-Waived</u>
Consumer Advocate		Rebuttal testimony (only if HECO requests Rebuttal Testimony)	
LoL		Rebuttal testimony (only if HECO requests Rebuttal Testimony)	
Consumer Advocate		Closing Statement	
LoL		Closing Statement	
HECO		Closing Statement	
		End	

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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