

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
PUBLIC UTILITIES COMMISSION )  
Instituting a Proceeding to )  
Investigate the Implementation )  
Of Feed-in Tariffs. )  
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DOCKET NO. 2008-0273

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

ORDER GRANTING INTERVENTION

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PUBLIC UTILITIES  
COMMISSION

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OF THE STATE OF HAWAII

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PUBLIC UTILITIES COMMISSION )	Docket No. 2008-0273
Instituting a Proceeding to )	
Investigate the Implementation )	
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_____ )	

ORDER GRANTING INTERVENTION

By this Order, the commission grants intervenor status to: 1) the Department of Business, Economic Development, and Tourism; 2) City and County of Honolulu; 3) County of Hawaii; 4) Life of the Land; 5) Haiku Design and Analysis; 6) Hawaii Renewable Energy Alliance; 7) Blue Planet Foundation; 8) Hawaii Solar Energy Association; 9) The Solar Alliance; 10) Hawaii Bioenergy, LLC; 11) Sempra Generation; 12) Maui Land & Pineapple Company, Inc.; 13) Zero Emissions Leasing LLC; 14) Sopogy Inc.; 15) Hawaii Holdings, LLC, doing business as First Wind Hawaii; 16) Clean Energy Maui LLC; 17) Tawhiri Power LLC; and 18) Alexander & Baldwin, Inc. through its division, Hawaiian Commercial & Sugar Company (collectively, "Intervenors").

I.

Background

By Order Initiating Investigation, filed on October 24, 2008, the commission instituted this proceeding to examine the issues related to implementation of feed-in tariffs

in the service territories of HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), and HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO").<sup>1</sup> In its Order, the commission stated:

Any interested individual, entity, agency, or community or business organization may file a motion to intervene or participate without intervention in this docket. Motions to intervene or participate without intervention must comply with all applicable rules of HAR Chapter 6-61. Any individual, entity, agency, or community or business organization allowed to intervene or participate without intervention in this proceeding should be cognizant of the HECO Companies and the Consumer Advocate's request that the commission conclude this investigation by March 2009. Any intervenor or participant, moreover, will not be allowed to broaden the issues or unduly delay the proceeding.

Order Initiating Investigation, at 6.

Subsequent to the opening of this docket, the following motions to intervene were filed: 1) The Department of Business, Economic Development, and Tourism's Motion to Intervene, filed on November 13, 2008; 2) City and County of Honolulu's Motion to Intervene or Participate, filed on November 13, 2008; 3) County of Hawai'i's Motion to Intervene or to Participate in the Public Utilities Commission's Docket No. 2008-0273, Instituting a Proceeding to Investigate the Implementation of Feed-in Tariffs, filed on November 13, 2008; 4) Life of the Land's Motion to Intervene, filed on November 3, 2008; 5) Motion to Intervene of Haiku Design and Analysis, filed on November 12, 2008; 6) Motion to Intervene of Hawaii Renewable

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<sup>1</sup>HECO, MECO, and HELCO are collectively referred to as "HECO Companies" or "Hawaiian Electric Companies."

Energy Alliance, filed on November 12, 2008; 7) Blue Planet Foundation's Motion to Intervene; 8) Motion for Intervention of Hawaii Solar Energy Association, filed on November 13, 2008; 9) The Solar Alliance's Motion to Intervene, filed on November 13, 2008; 10) Hawaii Bioenergy, LLC's Motion to Intervene, filed on November 12, 2008; 11) Motion to Intervene of Sempra Generation, filed on November 12, 2008; 12) Maui Land & Pineapple Company, Inc.'s Motion to Intervene, filed on November 13, 2008; 13) Motion for Intervention of Zero Emissions Leasing LLC, filed on November 12, 2008; 14) Motion to Intervene of Sopogy Inc., filed on November 12, 2008; 15) Motion to Intervene by Hawaii Holdings, LLC, Doing Business as First Wind Hawaii, filed on November 13, 2008; 16) Motion for Intervention of Clean Energy Maui LLC, filed on November 13, 2008; 17) Tawhiri Power LLC's Motion to Intervene, filed on November 13, 2008; and 18) Alexander & Baldwin, Inc. through its division, Hawaiian Commercial & Sugar Company's Motion to Intervene, filed on November 13, 2008 (collectively, "Intervention Motions").

By letters filed on November 12, 13, and 24, 2008, HECO states that it does not oppose the granting of intervenor status to any of the Intervenor<sup>2</sup>s so long as movants do not broaden the issues or delay the proceeding and comply with the commission's Rules of Practice and Procedure.

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<sup>2</sup>HECO did not state whether it opposed intervention by Hawaii Bioenergy, LLC. Given its position with respect to the other seventeen movants, the commission assumes that HECO likewise does not object to Hawaii Bioenergy, LLC's Motion to Intervene, filed on November 12, 2008.

## II.

### Discussion

#### A.

### Intervention

HAR § 6-61-55 sets forth the requirements for intervention in commission proceedings. It states, in relevant part:

- (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.
- (b) The motion shall make reference to:
  - (1) The nature of the applicant's statutory or other right to participate in the hearing;
  - (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
  - (3) The effect of the pending order as to the applicant's interest;
  - (4) The other means available whereby the applicant's interest may be protected;
  - (5) The extent to which the applicant's interest will not be represented by existing parties;
  - (6) The extent to which the applicant's participation can assist in the development of a sound record;
  - (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;

- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

HAR § 6-61-55(a) and (b).

HAR § 6-61-55(d) further states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." In addition, the Hawaii Supreme Court has stated the general rule on intervention as follows: "Intervention as a party in a proceeding before the [commission] is not a matter of right but is a matter resting within the sound discretion of the commission." In re Application of Hawaiian Elec. Co., Inc., 56 Haw. 260, 262, 535 P.2d 1102, 1104 (1975).

Here, while the commission is cognizant of the varying levels of interest and experience of movants, given the nature of this investigation, the commission will grant all of the Intervention Motions. Nonetheless, Intervenors are cautioned that their participation as Intervenors in this docket will be limited to the issues raised in this docket. The commission will preclude any effort by the Intervenors to unreasonably broaden the issues, or unduly delay the proceeding, and will reconsider an Intervenor's participation in this docket if, at any time, during the course of this proceeding, the commission determines that an Intervenor is unreasonably broadening the pertinent issues raised in this docket or is unduly delaying

the proceeding. In addition, given that the commission has granted intervention status to Intervenorors, the commission expects that all Intervenorors will fully participate in the docket, and will comply with the commission's rules and orders. As noted above, failure to do so may constitute cause for the commission to reconsider its decision to grant an Intervenor intervention status.

B.

Procedural Matters

In its Order Initiating Investigation, the commission directed that:

Within forty-five days from the date of this Order, the Parties (and intervenors and participants, if any) shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The stipulated procedural schedule that the Parties submit to the commission should, to the extent possible, allow the commission to complete its deliberations and issue a decision by March 31, 2009. If the Parties (and intervenors and participants, if any) are unable to stipulate, each of them shall file proposed orders for the commission's review and consideration within the same deadline.

Order Initiating Investigation, at 8-9.

Given the number of parties to this docket, the commission will extend the original deadline for filing a stipulated procedural order in this docket for an additional two weeks from December 8, 2008 to December 22, 2008.

III.

Orders

THE COMMISSION ORDERS:

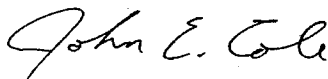
1. The Intervention Motions filed by Intervenors are granted.


2. By December 22, 2008, the Parties shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. If the Parties are unable to stipulate, each of them shall file a proposed order for the commission's review and consideration within the same deadline.

DONE at Honolulu, Hawaii NOV 28 2008.

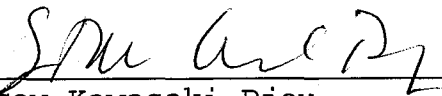
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Stacey Kawasaki Djou  
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2008-0273.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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