

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 Intragovernmental Wheeling)
Of Electricity.)
_____)

DOCKET NO. 2007-0176

ORDER APPROVING REQUEST TO
TEMPORARILY SUSPEND THE DOCKET

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DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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OF THE STATE OF HAWAII

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Of Intragovernmental Wheeling)	
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ORDER APPROVING REQUEST TO
TEMPORARILY SUSPEND THE DOCKET

By this Order, the commission approves the DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM's ("DBEDT") request to temporarily suspend this docket for a period of twelve months from the date of the filing of its request, i.e., until November 13, 2009; provided that the commission, at its option, may re-institute this docket at an earlier date.¹

"The Parties are: (1) HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"); (2) HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"); (3) MAUI ELECTRIC COMPANY, LIMITED ("MECO"); (4) KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"); (5) the DEPARTMENT OF THE NAVY on behalf of the UNITED STATES DEPARTMENT OF DEFENSE; (6) DBEDT; (7) the COUNTY OF HAWAII; (8) the COUNTY OF KAUAI; (9) the COUNTY OF MAUI; (10) the CITY AND COUNTY OF HONOLULU; (11) HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"); (12) LIFE OF THE LAND ("LOL"); (13) CASTLE AND COOKE RESORTS, LLC/LANAI SUSTAINABILITY RESEARCH, LLC ("Castle and Cooke Resorts/LSR"); and (14) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). HECO, HELCO, and MECO are collectively referred to as the "HECO Companies."

The Participants are: (1) REALGREEN POWER L.L.C. ("RealGreen Power"); (2) SUN EDISON LLC ("Sun Edison"); and (3) PUNA GEOTHERMAL VENTURE ("PGV").

I.

Background

The remaining steps governing the informal phase of this proceeding as well as the beginning of the formal phase are as follows:

Procedural
Step

Deadline

Informal Phase:

Responses to Informal
Questions

December 16, 2008

Informal Statements
of Position ("SOPs")

January 12, 2009

Technical Sessions on
Informal SOPs

Week of February 2, 2009

Formal Phase:

Stipulated Dates to
Govern the Formal Process
(or individual submittals)

February 9, 2009

Order Approving Extensions of Time, filed on October 28, 2008, at 4.

By letter dated November 12, 2008, filed on November 13, 2008, DBEDT requests that the commission temporarily suspend Docket No. 2007-0176 for a period of twelve months for the purpose of conserving limited resources while reviewing the necessity of this proceeding in light of the numerous commitments made in the Energy Agreement² to increase renewable energy in the State of Hawaii ("State"). Timely responses to DBEDT's request were submitted by the County of Maui on November 19, 2008, and

²"Energy Agreement Among the State of Hawaii Division of Consumer Advocacy of the Department of Commerce & Consumer Affairs, and Hawaiian Electric Companies" dated October 2008 ("Energy Agreement").

by Sun Edison LLC, HREA, LOL, PGV, RealGreen Power, Castle and Cooke Resorts/LSR, the City and County of Honolulu ("City"), and KIUC, on November 20, 2008.³

II.

Discussion

DBEDT, in support of its request to temporarily suspend this investigative proceeding, explains:

[DBEDT] respectfully requests a suspension of Docket No. 2007-0176 for a period of twelve (12) months so that the necessity of the docket may be reviewed in light of recent and comprehensive initiatives to accelerate the acquisition of renewable energy in the State of Hawaii. The request is made pursuant to the October 20, 2008 Energy Agreement among the State of Hawaii, Consumer Advocate and Hawaiian Electric Companies ("Agreement") arising out of the Hawaii Clean Energy Initiative (HCEI).

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As a part of their agreement to implement feed-in tariffs as a method for accelerating the acquisition of renewable energy in Hawaii, and Hawaiian Electric's implementation plan for the integration of renewable energy commitments, the achievement of utility renewable energy program goals, as well as the other commitments offered in the Agreement, the parties agreed to request Commission suspension of the current intra-governmental wheeling docket (i.e., Docket No. 2007-0176), for a period of twelve (12) months, with a goal of having [the] parties review the necessity of the docket. (Agreement at 17)

Suspension of Docket No. 2007-0176 would allow for the conservation of limited resources while the necessity of an intra-governmental wheeling proceeding is evaluated in light of the numerous commitments made in the Agreement to

³A belated response was submitted by the County of Hawaii on November 21, 2008. Letter dated November 20, 2008, filed on November 21, 2008, from the County of Hawaii to the commission. The County of Hawaii does not object to DBEDT's request.

increasing renewable energy in Hawaii including but not limited to, the Commission's opening of Docket No. 2008-0273. Suspension of Docket No. 2007-0176 will also assist in insuring that the Agreement is implemented as a coherent whole taking into account the many and comprehensive commitments made by the parties.

Accordingly, DBEDT respectfully requests that the Commission suspend Docket No. 2007-0176 for a period of twelve months. We herein note, however, that Hawaii Renewable Energy Alliance, Life of the Land, RealGreen Power L.L.C., Sun Edison LLC, and Puna Geothermal Venture oppose this request and do not join in this letter. Further, the County of Kauai indicated that it would not support this request if it cannot be joined as a necessary party to the feed-in tariffs docket. The other County participants are still deliberating this matter but have not as of this writing indicated their opposition.

Letter dated November 12, 2008, filed on November 13, 2008, from DBEDT to the commission, at 1 and 3.

As explained by DBEDT, the Energy Agreement was executed by the Governor, DBEDT, the Consumer Advocate, and the HECO Companies on October 20, 2008. Consistent with the terms of the Energy Agreement, the commission, on October 24, 2008, opened investigative proceedings to examine the proposed implementation of: (1) feed-in tariffs for the service territories of the HECO Companies (Docket No. 2008-0273); and (2) a revenue decoupling mechanism for the HECO Companies (Docket No. 2008-0274), for ratemaking purposes.

With respect to Docket No. 2007-0176, the Energy Agreement states in part:⁴

With the parties' agreement to implement feed-in tariffs as a method for accelerating the acquisition of renewable energy and Hawaiian Electric's implementation plan set forth

⁴The term "parties," as used in the Energy Agreement, refers to the parties to the Energy Agreement.

in Exhibit B, towards the integration of the renewable energy commitments, the achievement of the utility renewable energy program goals, as well as the other commitments offered in this document as identified and summarized in Exhibit A, the parties further agree to request Commission suspension of the current intra-governmental wheeling docket (i.e., Docket No. 2007-0176) and the Schedule Q investigation (i.e., Docket No. 2008-0069) for a period of 12 months, with a goal of having [the] parties review [the] necessity of the docket.

Energy Agreement, at 17 (emphasis added).

Here, the County of Maui, Castle and Cooke Resorts/LSR, and KIUC affirmatively do not object to DBEDT's request.⁵ KIUC expands on its position, stating:

1. While it is not a party to the Energy Agreement, KIUC is in the process of exploring the most effective means to accelerate the acquisition of renewable energy on the island of Kauai, consistent with Kauai's unique energy issues and the interests of the public and KIUC, as a member-owned cooperative.

2. KIUC concurs with DBEDT's rationale for suspending Docket No. 2007-0176. KIUC notes that: (A) by proceeding to complete the remaining steps that govern the informal process, including the technical meeting, KIUC, with its limited resources, will be unable to effectively analyze and accomplish the main objective of how best to implement renewable energy resources on the island of Kauai, consistent with the interests

⁵Letter dated November 18, 2008, filed on November 19, 2008, from County of Maui to the commission; letter dated and filed November 20, 2008, from Castle and Cooke Resorts/LSR to the commission; and letter dated and filed November 20, 2008, from KIUC to the commission.

of the cooperative and its owner-members; and (B) the formal process of this proceeding has not yet been scheduled or commenced.

Conversely, the five opponents to DBEDT's request, as identified in DBEDT's letter - Sun Edison, HREA, LOL, PGV, and RealGreen Power (collectively, the "Joint Opponents") - jointly submitted their written Opposition.⁶ Three of these opponents, Sun Edison, PGV, and RealGreen Power, are the Participants in Docket No. 2007-0176.⁷ In addition, the City separately filed its written Opposition.⁸

The Joint Opponents and the City, in opposing DBEDT's request, contend:

1. The Joint Opponents and the City are not parties to the Energy Agreement, and were not involved in negotiating the agreement. The Energy Agreement, in essence, is not binding on the Joint Opponents, the City, or the commission. Moreover,

⁶Response of Sun Edison, HREA, LOL, PGV, and RealGreen Power in Opposition to Request to Suspend Proceedings; and Certificate of Service, filed on November 20, 2008 (collectively, "Joint Opposition"). Counsel for Sun Edison, who signed this filing, represents that he is authorized to sign the Joint Opposition on behalf of the Joint Opponents. See Joint Opposition, at 12.

Moreover, DBEDT represents that the County of Kauai does not support DBEDT's request if the county is not joined as a necessary party to Docket No. 2008-0273. Letter dated November 12, 2008, filed on November 13, 2008, from DBEDT to the commission, at 3. Based on the commission's review, however, it does not appear that the County of Kauai has filed a motion to intervene in Docket No. 2008-0273.

⁷As Participants, the scope of their participation in this proceeding is limited to the conditions set forth in Section II.C.5 of Order No. 23677, filed on September 21, 2007.

⁸Response of the City and County of Honolulu in Opposition to Request to Suspend Proceedings; and Certificate of Service, filed on November 20, 2008.

"[a]s KIUC is not a party to the Agreement and has not filed to implement a feed in tariff, there is no reason to suspend these proceedings with respect to KIUC."⁹

2. The February 9, 2009 deadline date for Docket No. 2007-0176 is less than two months before the March 31, 2009 target date for the commission to issue its decision in the feed-in tariff proceeding, Docket No. 2008-0273. Thus, to the extent necessary, the Parties and Participants in Docket No. 2007-0176 can agree to dates to govern the formal process that accommodate the dates established in Docket No. 2008-0273. Simply put, the requested one-year suspension is unnecessary and excessive, and there is no justification for delaying the commencement of the formal procedures in Docket No. 2007-0176.

3. The continuation of Docket No. 2007-0176 will not interfere with or hinder the implementation of the Energy Agreement, and instead, should advance the goals set forth therein. In effect, there is no evidence that the implementation of feed-in tariffs will obviate the need for intra-governmental wheeling.

The purpose of the feed-in tariff is to encourage the development of renewable energy by requiring the electric utility to purchase the output from a renewable energy facility at an established rate. Conversely, intra-governmental wheeling is designed to permit one governmental entity to generate energy from renewable and non-renewable energy resources, and to

⁹Joint Opposition, at 11.

transmit such energy to one or more other related governmental facilities. Thus, "it makes far more sense to develop the feed in and intra-governmental tariffs concurrently as each is essential to achieving the twin goals of increasing the use of renewable energy resources and of assisting governmental agencies in lowering their energy costs by constructing their own generation, whether it is from renewable or non-renewable resources."¹⁰

Lastly, in the event that Docket No. 2007-0176 is suspended, the City contends that the commission, at a minimum, should consider the manner in which the suspension is implemented. Specifically, the Parties and Participants should be permitted to conclude the informal phase of this proceeding, as scheduled. Thus, the suspension should take effect after the completion of the informal phase.

Here, given the circumstances, the commission will approve DBEDT's request to suspend this docket. The commission concurs with DBEDT's assessment that the suspension of Docket No. 2007-0176 will "allow for the conservation of limited resources while the necessity of an intra-governmental wheeling proceeding is evaluated in light of the numerous commitments made in the [Energy] Agreement to increasing renewable energy in Hawaii including but not limited to, the Commission's opening of Docket No. 2008-0273."¹¹ DBEDT was a significant part of the commission's decision to open this commission-initiated docket.

¹⁰Joint Opposition, at 7.

¹¹DBEDT's letter, dated November 12, 2008, at 3.
2007-0176

That DBEDT believes that the limited resources of the stakeholders in the energy arena in the State are best served by suspension of this docket is sufficient for the commission to delay this proceeding to allow DBEDT and others to focus on other substantive matters that may allow the State to achieve its energy objectives sooner.

Accordingly, consistent with its general and investigative authority, the commission approves DBEDT's request to temporarily suspend this docket for a period of twelve months from the date of the filing of its request, i.e., until November 13, 2009; provided that the commission, at its option, may re-institute this docket at an earlier date.

III.

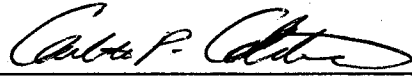
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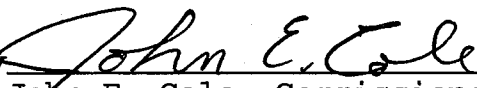
THE COMMISSION ORDERS:

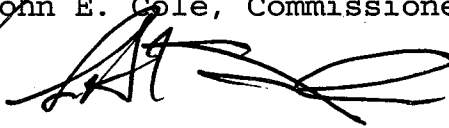
DBEDT's request to temporarily suspend this docket for a period of twelve months from the date of filing its request, i.e., until November 13, 2009, is approved; provided that the commission, at its option, may re-institute this docket at an earlier date.

DONE at Honolulu, Hawaii DEC - 8 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

2007-0176.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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