

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

HAWAIIAN ELECTRIC COMPANY, INC. )

DOCKET NO. 2007-0409

For Approval to Commit Funds in )  
Excess of \$2,500,000 for )  
Item P0001534, the Barbers Point )  
Fuel Oil Tank 131 Renovation. )

ORDER NO. 23985

Filed Jan. 29, 2008

At 11 o'clock A.M.

Karen Higashi

Chief Clerk of the Commission

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

2008 JAN 30 A 9:25

RECEIVED

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

Karen Higashi

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OF THE STATE OF HAWAII

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Docket No. 2007-0409

Order No. 23985

ORDER

By this Order,<sup>1</sup> the commission: (1) approves the Parties' voluntary and intentional waiver of the ninety-day deadline governing the commission's issuance of its decision and order in this capital improvement project proceeding; and (2) adopts, with modification, the Stipulated Procedural Order jointly submitted by the Parties on January 17, 2008.

I.

Background

By its Application filed on December 11, 2007, HECO requests the commission's approval to commit approximately \$4,075,084 in funds for the Barbers Point Fuel Oil Tank 131 Renovation Project ("Project").<sup>2</sup> HECO makes its request in

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<sup>1</sup>The Parties are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

<sup>2</sup>Application; Verification; Attachments 1 - 5; and Certificate of Service, filed on December 11, 2007 (collectively,

accordance with Paragraph 2.3(g)(2) of General Order No. 7, Standards for Electric Utility Service in the State of Hawaii ("G.O. 7"), as modified by In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Docket No. 03-0257, Decision and Order No. 21002, filed on May 27, 2004 ("Decision and Order No. 21002").

On December 20, 2007, the commission approved: (1) HECO's request to deviate from the requirement set forth in Paragraph 2.3(g)(2) of G.O. No. 7, as modified by Decision and Order No. 21002, that HECO file its application at least sixty days prior to the commencement of construction or commitment for the expenditure of funds for the Project; and (2) instructed the Parties to submit, by January 22, 2008, a stipulated procedural order for the commission's review and consideration.<sup>3</sup>

On January 17, 2008, the Parties jointly submitted their Stipulated Procedural Order.

## II.

### Discussion

#### A.

#### Waiver of the Ninety-Day Deadline for Commission Issuance of its Decision and Order

Paragraph 2.3(g)(2) of G.O. No. 7, as modified by Decision and Order No. 21002, states in relevant part:

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"Application"). HECO served copies of its Application upon the Consumer Advocate.

<sup>3</sup>Order No. 23915, filed on December 20, 2007.

Capital Improvements.

. . . . .

2. Proposed capital expenditures for any single project related to plant replacement, expansion or modernization, in excess of \$2,500,000, excluding customer contributions, or 10 per cent of the total plant in service, whichever is less, shall be submitted to the Commission for review at least 60 days prior to the commencement of construction or commitment for expenditure, whichever is earlier . . . . Failure of the Commission to act upon the matter and render a decision and order within 90 days of filing by the utility shall allow the utility to include the project in its rate base without the determination by the Commission required by this rule. The data submitted under this rule shall be in such form and detail as prescribed by the Commission.

G.O. No. 7, Paragraph 2.3(g)(2), as modified by Decision and Order No. 21002, Ordering ¶ No. 2, at 15 (emphasis added).

The ninety-day deadline for the commission to issue its decision and order is March 7, 2008, pursuant to G.O. No. 7, Paragraph 2.3(g)(2), as modified by Decision and Order No. 21002. Here, however, the Parties' Stipulated Procedural Order includes certain deadline dates that extend after March 7, 2008, including: (1) March 19, 2008, the deadline for HECO to submit its responses to the commission's supplemental information requests; (2) April 16, 2008, the deadline for the Consumer Advocate to file its Statement of Position; and (3) May 7, 2008, the deadline for HECO to file its Reply Statement of Position, if necessary.

Under the circumstances, by proposing certain dates that will occur after March 7, 2008, including the filing of the Consumer Advocate's Statement of Position, the commission finds

that the Parties intentionally and voluntarily waive the commission's issuance of its decision and order by March 7, 2008.<sup>4</sup> The commission approves the Parties' voluntary and intentional waiver of issuance of the commission's decision and order by March 7, 2008.

B.

Stipulated Procedural Order, as Modified

Upon review, the commission will adopt the Parties' Procedural Order, subject to the commission's modification of Section III.E, General, "consistent with past commission decisions governing stipulated prehearing and procedural orders, respectively."<sup>5</sup> Thus, Section III.E is amended as follows:<sup>6</sup>

E. General

These procedures are consistent with the orderly conduct of this docket.

[Pursuant to Chapter 61, subchapter 3, section 6-61-37 of the Commission's Rules of Practice and Procedure, this] **This** Stipulated Procedural Order shall control the subsequent course[s] of the proceedings, unless modified [at or prior to the hearings to prevent manifest

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<sup>4</sup>Cf. In re Waikoloa Resort Util., Inc., dba West Hawaii Util. Co., Docket No. 2006-0409 ("Docket No. 2006-0409"), Order No. 23551, filed on July 18, 2007 (under the circumstances, by proposing one or more deadline dates that will occur after the nine-month deadline governing the commission's issuance of its final decision in a general rate case proceeding, the parties intentionally and voluntarily waived the commission's issuance of its final decision within nine months from the filing date of the public utility's application).

<sup>5</sup>Docket No. 2006-0409, Order No. 23351, filed on April 10, 2007, at 3.

<sup>6</sup>Deletions are bracketed, additions are underscored. See, e.g., Docket No. 2006-0409, Order No. 23351, at 3-5.

injustice.] by the Parties in writing and approved by the Commission consistent with HAR § 6-61-23, to the extent applicable, or upon the Commission's own motion.

### III.

#### Orders

#### THE COMMISSION ORDERS:

1. The Parties' voluntary and intentional waiver of the ninety-day deadline governing the commission's issuance of its decision and order in this capital improvement project proceeding is approved.

2. The Stipulated Procedural Order jointly submitted by the Parties on January 17, 2008, attached as Exhibit 1 herein, is adopted as modified herein to govern the proceedings in this docket.

3. Section II.E of the Stipulated Procedural Order is modified to read as follows:

#### E. General

These procedures are consistent with the orderly conduct of this docket.

This Stipulated Procedural Order shall control the subsequent course of the proceedings, unless modified by the Parties in writing and approved by the Commission consistent with HAR § 6-61-23, to the extent applicable, or upon the Commission's own motion.

DONE at Honolulu, Hawaii JAN 29 2008.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

By Leslie H. Kondo  
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Michael Azama  
Michael Azama  
Commission Counsel

2007-0409.eh

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In The Matter Of The Application Of

HAWAIIAN ELECTRIC COMPANY, INC.

For Approval to Commit Funds in Excess of  
\$2,500,000 for Item P0001534, the Barbers Point Fuel  
Oil Tank 131 Renovation; and for Deviation of  
Paragraph 2.3(g)(2) of General Order No. 7.

DOCKET NO. 2007-0409

PUBLIC UTILITIES  
COMMISSION

2008 JAN 17 P 2:42

FILED

STIPULATED PROCEDURAL ORDER NO. \_\_\_\_\_

Filed \_\_\_\_\_, 2008

At \_\_\_\_\_ o'clock \_\_\_\_\_M.

\_\_\_\_\_  
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION  
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In The Matter Of The Application Of

HAWAIIAN ELECTRIC COMPANY, INC.

DOCKET NO. 2007-0409

For Approval to Commit Funds in Excess of  
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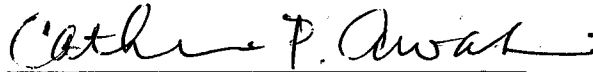
STIPULATED PROCEDURAL ORDER

Applicant Hawaiian Electric Company, Inc. ("HECO") and the Division of  
Consumer Advocacy of the Department of Commerce and Consumer Affairs (the  
"Consumer Advocate") hereby stipulate that the attached Stipulated Procedural Order is  
mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, January 17, 2008.



WILLIAM A. BONNET  
Vice President  
Government and Community Affairs  
Hawaiian Electric Company, Inc.



CATHERINE P. AWAKUNI  
Executive Director  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs

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HAWAIIAN ELECTRIC COMPANY, INC.

DOCKET NO. 2007-0409

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Oil Tank 131 Renovation; and for Deviation of  
Paragraph 2.3(g)(2) of General Order No. 7.

STIPULATED PROCEDURAL ORDER

On December 11, 2007, Hawaiian Electric Company, Inc. ("HECO") filed an application requesting Commission approval to commit funds in excess of \$2,500,000 for the Barbers Point Fuel Oil Tank 131 Renovation project, in accordance with the provisions of Paragraph 2.3(g)(2) of General Order No. 7.<sup>1</sup> HECO further requested a deviation from Paragraph 2.3(g)(2) of General Order No. 7 ("G.O. 7") to permit HECO to commit funds for the subject project earlier than 60 days after filing its application for Commission review of the project. HECO served copies of the application on the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate").

By Order No. 23915, filed December 20, 2007, the Commission approved HECO's

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<sup>1</sup> Pursuant to Decision and Order No. 21002 ("D&O 21002"), filed May 27, 2004, in Docket No. 03-0257, effective July 1, 2004, the General Order No. 7 capital expenditures threshold was increased from \$500,000 to \$2.5 million, excluding customer contributions. The capital cost of the subject project is greater than \$2.5 million (excluding customer contributions), therefore, Commission approval of the capital expenditures is required.

request to deviate from the requirement set forth in Paragraph 2.3(g)(2) of G.O. 7. The Commission also ordered HECO and the Consumer Advocate to submit a stipulated procedural schedule for the Commission's review and consideration by January 22, 2008.

HECO and the Consumer Advocate have reached agreement on procedural matters and submit this Stipulated Procedural Order to the Commission, which is acceptable to the parties.

ACCORDINGLY, IT IS ORDERED that the following Statement of the Issues, Schedule of Proceedings and procedures shall be utilized in this docket.

I.

STATEMENT OF THE ISSUES

The issues in this docket are:

1. Is HECO's proposed renovation of the Barbers Point Fuel Oil Tank 131 reasonable?
2. Are the estimated project costs reasonable?

II.

SCHEDULE OF PROCEEDINGS

HECO Application for Barbers Point Fuel Oil Tank 131 Renovation project	December 11, 2007
Consumer Advocate Information Requests ("IRs") to HECO <sup>2</sup>	January 16, 2008
HECO IR Responses to Consumer Advocate <sup>2</sup>	February 6, 2008

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<sup>2</sup> Whenever possible, parties will provide copy of documents on diskette upon request.

Consumer Advocate Supplemental IRs (“SIRs”)<sup>2</sup>, February 27, 2008  
if necessary

HECO Responses to SIRs<sup>2</sup> March 19, 2008

Consumer Advocate Statement of Position (“SOP”) April 16, 2008

HECO SOP, if necessary\* May 7, 2008

- \* If the Consumer Advocate objects to approval of the application, or requests that approval be subject to conditions.

If there are substantial disagreements following the filing of the SOPs, and the parties cannot resolve the differences by stipulation and the parties do not waive the right to a hearing, the parties shall propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If HECO determines that a Reply SOP is unnecessary, HECO and the Consumer Advocate will notify the Commission that the proceeding is ready for decision making.

### III.

#### MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

##### A. Requests for Information

To the extent practical, HECO and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope or meaning of information

requests, or with respect to the availability of information. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials, the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium available to the other party and the Commission.

A party shall not be required, in a response to an information request, to provide data that are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response

contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to a protective order governing this docket.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

**B. Matters of Public Record**

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that HECO has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to electric utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the

identified document is available for inspection by the Commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

C. Copies of Filings and Information Requests.

1. Filings:

Commission	Original + 8 copies
HECO	2 copies
Consumer Advocate	2 copies

2. Information Requests and Responses:

Commission	Original + 8 copies
HECO	2 copies
Consumer Advocate	2 copies

3. All pleadings, and other documents required to be filed with the Commission shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

4. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or via facsimile. In addition, if available, all parties shall provide copies of their filings, information requests

and information request responses to the other parties via diskette or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via diskette or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or via facsimile as provided in Parts C.1 and C.2 above.

D. Communications

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda,

and the like shall also be served on opposing counsel.

E. General

These procedures are consistent with the orderly conduct of this docket.

Pursuant to Chapter 61, subchapter 3, section 6-61-37 of the Commission's Rules of Practice and Procedure, this Stipulated Procedural Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearings to prevent manifest injustice.

DONE at Honolulu, Hawaii, this \_\_\_\_ day of \_\_\_\_\_, 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

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated  
Procedural Order No. \_\_\_\_\_ upon the following parties and participant,  
by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each  
such party or participant.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813

WILLIAM A. BONNET  
VICE PRESIDENT, GOVERNMENT AND COMMUNITY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, HI 96840-0001

DEAN MATSUURA  
MANAGER, REGULATORY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, HI 96840-0001

\_\_\_\_\_  
Karen Higashi

DATED: \_\_\_\_\_

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23985 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

WILLIAM A. BONNET  
VICE PRESIDENT  
GOVERNMENT AND COMMUNITY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, HI 96840-0001

DEAN MATSUURA  
DIRECTOR  
REGULATORY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, HI 96840-0001

  
\_\_\_\_\_  
Karen Higashi

DATED: JAN 29 2008