

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
HAWAII ELECTRIC LIGHT)
COMPANY, INC.)
Regarding Integrated Resource)
Planning.)
_____)

DOCKET NO. 04-0046

ORDER NO. 24027

Filed February 11, 2008
At 11:30 o'clock A.M.

for Stanley D.
Chief Clerk of the Commission

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

Eleanor R. Iwamoto

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DIV. OF CONSUMER ADVOCACY
PUBLIC UTILITIES
COMMISSION
STATE OF HAWAII

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Docket No. 04-0046

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ORDER

By this Order, the commission denies HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO") and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' ("Consumer Advocate")¹ joint motion for limited clarification of Decision and Order No. 23977, filed on February 4, 2008 ("Joint Motion").

I.

Background

By Decision and Order No. 23977, filed on January 24, 2008, the commission approved HELCO's third integrated resource plan ("IRP-3") and program implementation schedule ("Action Plan"); and HELCO and the Consumer Advocate's Stipulation Regarding Hearing and Commission Approval dated November 16, 2007. In their Stipulation, HELCO and the

¹The Consumer Advocate is an ex officio party pursuant to Hawaii Revised Statutes ("HRS") § 269-51, and Hawaii Administrative Rules ("HAR") § 6-61-62(a). HELCO and the Consumer Advocate are collectively referred to as the "Parties."

Consumer Advocate agreed, among other things, that HELCO would submit an initial evaluation report of its IRP-3 Plan and Action Plan no later than March 31, 2009 and a second evaluation report no later than March 31, 2010.² As these time frames were acceptable to the commission, the commission directed HELCO to file an initial evaluation report of its IRP-3 Plan and Action Plan no later than March 31, 2009, and a second evaluation report no later than March 31, 2010.³

In addition, in their Stipulation, HELCO and the Consumer Advocate agreed that HELCO would submit a revised IRP Plan and Action Plan no later than March 31, 2011, unless the commission set a different date for the submission.⁴ As the IRP Framework required the filing of HELCO's fourth integrated resource plan ("IRP-4") three years after the filing of IRP-3, and "[g]iven the number of extension requests for filing of IRP plans that the commission typically receives," the commission declined to accept the March 31, 2011 date stipulated to by the parties and instead set a deadline of May 31, 2010, for HELCO's filing of IRP-4.⁵

On February 4, 2008, HELCO and the Consumer Advocate filed their Joint Motion requesting that the commission modify Decision and Order No. 23977 "such that the filing of a second evaluation report on March 31, 2010 is no longer

²Stipulation, at 5.

³Decision and Order No. 23977, at 69.

⁴Stipulation, at 10.

⁵Decision and Order No. 23977, at 67, 69.

required."⁶ In the alternative, HELCO and the Consumer Advocate request that Decision and Order No. 23977 be modified to require HELCO to file its IRP-4 no later than March 31, 2011 (rather than May 31, 2010, as set forth in the order).⁷

II.

Discussion

As HELCO and the Consumer Advocate, by their Joint Motion, seek a modification of Decision and Order No. 23977, the appropriate standard for review is HAR § 6-61-137, which provides:

A motion seeking any change in a decision, order, or requirement of the commission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall . . . set[] forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

HAR § 6-61-137. Thus, to succeed, HELCO and the Consumer Advocate must demonstrate that the commission's decision or order was "unreasonable, unlawful, or erroneous." See id.

⁶Joint Motion, at 6.

⁷Id.

A.

Second Evaluation Report

In their Joint Motion, HELCO and the Consumer Advocate argue that Decision and Order No. 23977 should be modified "such that the filing of a second evaluation report on March 31, 2010 is no longer required."⁸ According to the Parties, the filing is unnecessary because: 1) the commission "would not be receiving any significantly different information, analyses or assessment given that many of the inputs for the second evaluation report and development of IRP-4 would be largely the same, if not identical"; 2) the "Parties and Commission will have to devote significant resources to both develop and evaluate two separate reports within a short period of time"; and 3) "there is a legitimate question as to the value received by the Commission from two reports being submitted which contain very similar information and assessments based simply upon their proximity in time."⁹

Here, the IRP Framework¹⁰ requires the utility to "annually examine and evaluate its achievements in attaining its objectives."¹¹ It also requires the utility to file "a new

⁸Joint Motion, at 6.

⁹Joint Motion, at 2, 4.

¹⁰By 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 commission established a Framework for Integrated Resource Planning ("IRP Framework").

¹¹IRP Framework, Section II.C.4, at 5.

integrated resource plan and implementation schedule on the same day every three years."¹² When it adopted the Parties' stipulated deadlines for the filing of the annual evaluation reports, the commission allowed HELCO some leeway. Under a strict reading of the IRP Framework, the first and second annual evaluation reports should have been due on January 24, 2009 and January 24, 2010, respectively (exactly one and two years from the filing of Decision and Order No. 23977); rather than on March 31, 2009 and March 31, 2010, as agreed to by the Parties.

Since the Framework requires the filing of annual evaluation reports, it would be inappropriate to allow HELCO to forego a year just because it is working on the next IRP plan. If the information to be submitted with the second evaluation report is similar to the information in the filed IRP, it should not be overly burdensome for HELCO to prepare. Accordingly, the commission denies HELCO's motion to modify Decision and Order No. 23977 to eliminate the filing of the second evaluation report on March 31, 2010.

B.

IRP-4

In the alternative, HELCO and the Consumer Advocate request that Decision and Order No. 23977 be modified to require HELCO to file its IRP-4 no later than March 31, 2011 (rather than May 31, 2010). As stated in the decision and order, given the

¹²IRP Framework, Section III.B.2, at 8.

requirements of the IRP Framework and the number of extension requests the commission typically receives for filing of IRP plans,¹³ the commission declines to modify Decision and Order No. 23977 to set a March 31, 2011 deadline for HELCO's filing of IRP-4. In doing so, the commission cautions HELCO that the commission's reliance, in part, on past extension requests should not be understood by HELCO to be an invitation to bypass the May 31, 2010 deadline set by the commission. For the IRP process to work as intended by the commission, the utility must utilize its best efforts to comply with the deadlines set forth in the IRP Framework.

III.

Order

THE COMMISSION ORDERS:

HELCO and the Consumer Advocate's joint motion for limited clarification of Decision and Order No. 23977 is denied.

¹³In this docket, for example, the commission granted two extension requests for the filing of IRP-3 resulting in a 19-month delay in the filing of IRP-3 (from October 31, 2005 to May 31, 2007)

DONE at Honolulu, Hawaii FEB 11 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:

Stacey Kawasaki Djou
Stacey Kawasaki Djou
Commission Counsel

04-0046.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24027 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: FEB 11 2008