

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.)
_____)

DOCKET NO. 2008-0273

ORDER APPROVING THE HECO COMPANIES'
PROPOSED PROCEDURAL ORDER, AS MODIFIED

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

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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

ORDER APPROVING THE HECO COMPANIES'
PROPOSED PROCEDURAL ORDER, AS MODIFIED

By this Order, the commission approves, with modifications, the proposed Stipulated Procedural Order submitted on December 22, 2008, by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"),¹ the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), the DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM ("DBEDT"), the CITY AND COUNTY OF HONOLULU, the COUNTY OF HAWAII, SEMPRA GENERATION, and HAWAII HOLDINGS, LLC, doing business as FIRST WIND HAWAII ("First Wind").² The commission, however, modifies the Statement of Issues, and adopts the Regulatory Schedule proposed by HAIKU DESIGN AND ANALYSIS ("HDA") with certain modifications, as set forth herein.

¹HECO, MECO and HELCO are collectively referred to as the "HECO Companies."

²The proposed Stipulated Procedural Order is attached as Exhibit 1 to this Order.

I.

Background

By the Order Initiating Investigation, filed on October 24, 2008, the commission opened this docket to examine the implementation of feed-in tariffs in the HECO Companies' service territories. In that order, the commission directed the parties to file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. "The Parties' stipulated procedural schedule 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 a proposed order for the commission's review and consideration within the same deadline."³

On December 22, 2008, the HECO Companies, the Consumer Advocate, DBEDT, the City and County of Honolulu, the County of Hawaii, Semptra Generation, and First Wind filed their proposed Stipulated Procedural Order ("HECO Companies' SPO").⁴ Attached to the HECO Companies' SPO at Exhibit A is a proposed

³Order Initiating Investigation, filed on October 24, 2008, at 8-9 (emphasis added).

⁴As set forth in the letter accompanying the HECO Companies' proposed Stipulated Procedural Order, the HECO Companies state: "signatories have either authorized HECO representatives to sign on their behalf or have provided facsimile signatures. To the extent that the Commission desires original signatures, please let us know and we will secure those and transmit them to the Commission." Original signatures are required to be filed with the commission where facsimile signatures were provided. Allowing a party to sign on behalf of another party is not permitted.

Stipulated Regulatory Schedule. In the letter accompanying the SPO, the HECO Companies acknowledge that "there are certain parties that agree with the substance of the SPO but which seek to include additional issues or propose different dates or procedural steps for Exhibit A to the SPO. The HECO Companies respectfully submit that the attached SPO incorporates a modified Statement of Issues which shall be liberally construed within context and which encompasses many if not all of the additional issues raised."⁵

Also, on December 22, 2008, HDA filed its Proposed Procedural Order ("HDA's Procedural Order"). According to HDA, its "proposed procedural order consists of whatever Stipulated Procedural Order is ultimately transmitted to the Commission that is signed by the Consumer Advocate with the exception of (a) the Exhibit A: Stipulated Regulatory Schedule and (b) several additions to the section 'I. Statement of the Issues.'"⁶ According to HDA, "the proposed pace and deadlines set originally by the signatories to the October Energy Agreement and adopted by the Commission in its initiating order are not realistic. The proposed schedules put speed ahead of prudence and belie the parties' collective reluctance to question the deadlines in the Commission's initiating order in the face of sound reason."⁷ HDA further states:

⁵Letter dated and filed December 22, 2008, from the HECO Companies to the commission, at 3.

⁶Haiku Design and Analysis Proposed Procedural Order and Certificate of Service, at 2.

⁷Id. at 2.

HDA proposes this schedule here to suggest to the Commission that the March 31 deadline could be relaxed without delaying the ultimate outcome of the overall investigation and would provide the parties with more time to address a challenging roster of issues and tasks. Without arguing in detail the merits of a slower procedural schedule for the first phase of this investigation, HDA points out that the HDA schedule (a) provides for realistic consideration of feed-in tariffs proposed by parties other than the joint proposal to be filed by HECO and the CA whereas the other schedules do not, (b) provides for more realistic formal discovery timing, (c) offers the Commission the opportunity for panel hearings if desired, and (d) identifies specific times that the Commission and its consultant could provide comments and information requests available to all parties.

HDA urges the Commission to carefully review the schedules proposed by the parties in light of the complexity of the issues in this docket and consider the importance of careful deliberation. HDA strongly advises prudence rather than haste. Things do need to move along with diligence but the stakes and the costs of getting things wrong are much higher in this docket than, for instance, the decoupling docket. Decoupling is an ostensibly revenue neutral adjustment to rate design that considers adjustments amounting to a few million dollars that can be revisited and reversed at any time by the Commission. The feed-in tariff docket, by comparison, considers entirely restructuring the basis for pricing and procuring long term fixed obligations amounting to hundreds of millions of dollars with the challenging objective of prospectively setting prices correctly to create a new, stable and productive yet cost effective market structure.⁸

The following parties filed joinders to HDA's Procedural Order: HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"); SOPOGY INC. ("Sopogy"); LIFE OF THE LAND ("LOL"); ALEXANDER & BALDWIN, INC. through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY ("HC&S"); CLEAN ENERGY MAUI LLC; and TAWHIRI POWER LLC.

⁸Id. at 3-4.

On December 22, 2008, HAWAII BIOENERGY, LLC ("HBE") and MAUI LAND & PINEAPPLE COMPANY, INC. ("MLP") filed a Proposed Stipulated Regulatory Schedule ("HBE and MLP's Regulatory Schedule"). HBE and MLP state that they do not object to the HECO Companies' SPO with the exception of the proposed Stipulated Regulatory Schedule attached to the SPO as Exhibit A, and thus filed their own Proposed Stipulated Regulatory Schedule. According to HBE and MLP, "the HECO Companies' proposed Stipulated Regulatory Schedule is too compressed and will not provide HBE, MLP and the other parties with sufficient time to fully review, analyze and address the issues in this proceeding, to sufficiently develop and support their respective positions on these issues, and to then assist the Commission in developing a sound record and rendering decisions that are reasonable and in the public interest."⁹ "HBE and MLP contend that the Commission should not be required to adhere to the deadlines set forth in said Energy Agreement, and should consider the interests of the parties that were not part of the Energy Agreement in establishing the schedule for this proceeding."¹⁰ BLUE PLANET FOUNDATION filed a letter requesting that the commission adopt HBE and MLP's Regulatory Schedule.

HAWAII SOLAR ENERGY ASSOCIATION and THE SOLAR ALLIANCE¹¹ filed statements of no position on the issue of the procedural

⁹Letter dated and filed December 22, 2008, from HBE and MLP to the commission, at 1.

¹⁰Id. at 2.

¹¹The Solar Alliance's Statement of No Position as to the Procedural Schedule does not appear to have been signed by a

schedule. ZERO EMISSIONS LEASING LLC did not file any statement of position.

II.

Stipulated Procedural Order

In its Order Initiating Investigation, the commission directed the parties to file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding or, if they were unable to agree, to file separate proposed procedural orders. From the filings, it appears that the parties agree on the HECO Companies' SPO with the exception of the HECO Companies' statement of issues and their proposed regulatory schedule. As such, the commission will adopt the HECO Companies' SPO, subject to the modifications described below with respect to the HECO Companies' proposed statement of issues and regulatory schedule.

A.

Issues

In their SPO, the HECO Companies propose twelve issues. The first issue, however, is: "The issues which the Commission has identified in Exhibit C to its December 11, 2008 paper entitled 'Feed-In Tariffs: Best Design Focusing Hawaii's Investigation' (Scoping Paper)." Exhibit C in turn contains

representative of The Solar Alliance. As noted above, allowing a party to sign on behalf of another party is not permitted. Accordingly, a replacement signature page must be filed with the commission.

twenty-nine issues exclusive of sub-issues. In addition, HDA proposes five additional issues in its Procedural Order.

To better manage and articulate the issues in this docket, the commission has reviewed all of the proposed issues recommended by the parties and has developed the Statement of Issues listed below. The commission's Statement of Issues embraces all of the issues proposed by the parties and the issues raised in the paper prepared for the commission by the National Regulatory Research Institute ("NRRI"). The commission has annotated its Statement of Issues, noting where parties could address each of the proposed issues. These annotations are guides and the parties are free to address a matter noted with one of the commission's issues elsewhere within the issues listed below. The commission expects the parties to discuss these issues comprehensively, as indicated by the related issues and questions noted. The issues listed below do not express any preconception that the commission has about the outcome of this investigation or even a preference for feed-in tariffs over other means for utilities to purchase renewable resources.¹²

According, Section I titled "Statement of the Issues" in the HECO Companies' SPO shall be replaced with the following:

¹²In HDA's Procedural Order, HDA notes that there is "fundamental disagreement" between parties as to whether "it has already been determined that project-based feed-in tariffs will be adopted." As set forth in the commission's Statement of Issues, no such determination has been made and that issue is to be decided in this docket.

I. STATEMENT OF ISSUES

Purpose of Project-Based Feed-In Tariffs (PBFiTs)¹³

1. What, if any, purpose do PBFiTs play in meeting Hawaii's clean energy and energy independence goals, given Hawaii's existing renewable energy purchase requirements by utilities?
2. What are the potential benefits and adverse consequences of PBFiTs for the utilities, ratepayers and the State of Hawaii?
3. Why is or is not the PBFiT the superior methodology to meet Hawaii's clean energy and energy independence goals?

Legal Issues¹⁴

4. What, if any, modifications are prudent or necessary to existing federal or state laws, rules, regulations or other requirements to remove any barriers or to facilitate the implementation of a feed-in tariff not based on avoided costs?
5. What evidence must the commission consider in establishing a feed-in tariff and has that evidence been presented in this investigation?

Role of Other Methodologies¹⁵

6. What role do other methodologies for the utility to acquire renewable energy play with and without a PBFiT, including but not limited to power purchase contracts, competitive bidding, avoided cost offerings and net energy metering?

¹³See NRRI's questions 6, 9, 23, 24 and 25, and HDA's issues 1 and 2. NRRI's questions refer to the questions raised in Appendix C of its paper titled "Feed-in Tariffs: Best Design Focusing Hawaii's Investigation," which was distributed to the parties by commission letter dated December 11, 2008. HDA's issues refer to those contained in HDA's Procedural Order.

¹⁴See NRRI's questions 1-3 and HECO Companies' issue 2. The HECO Companies' issues refer to those listed in their SPO.

¹⁵See HECO Companies' issues 10, 11 and NRRI's questions 4 and 17.

Best design for a PBFiT or alternative method¹⁶

7. What is the best design, including the cost basis, for PBFiTs or other alternative feed-in tariffs to accelerate and increase the development of Hawaii's renewable energy resources and their integration in the utility system?

Eligibility Requirements¹⁷

8. What renewable energy projects should be eligible for which renewable electricity purchase methods or individual tariffs and when?

Analysis of the cost to consumers and appropriateness of caps¹⁸

9. What is the cost to consumers and others of the proposed feed-in tariffs?
10. Should the commission impose caps based upon these financial effects, technical limitations or other reasons on the total amount purchased through any mechanism or tariff?

Procedural Issues¹⁹

11. What process should the commission implement for evaluating, determining and updating renewable energy purchased power mechanisms or tariffs?
12. What are the administrative impacts to the commission and the parties of the proposed approach?

B.

Schedule

In its Order Initiating Investigation, filed on October 24, 2008, the commission opened this docket to examine

¹⁶See HECO Companies' issues 3, 8 and 9 and NRRI's questions 15, 16, 18, 20, 21, 22 and 29.

¹⁷See HECO Companies' issues 4, 5, 6 and NRRI's questions 11, 12, 19.

¹⁸See HECO Companies' issue 7, HDA's issue 3 and NRRI's questions 7, 8, 13 and 14.

¹⁹See HECO Companies' issue 12, HDA's issue 4, and NRRI's questions 5 and 10.

the implementation of feed-in tariffs in the HECO Companies' service territories. In that order, the commission directed the parties to file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. "The Parties' stipulated procedural schedule should, to the extent possible, allow the commission to complete its deliberations and issue a decision by March 31, 2009." A review of the parties' filings indicates that a majority do not believe that it is possible to for the commission to complete its deliberations and issue a decision on the first stage of the proceeding by March 31, 2009. In particular, the commission is cognizant of the statement by HBE and MLP in connection with their proposed Regulatory Schedule "that the Commission should not be required to adhere to the deadlines set forth in said Energy Agreement, and should consider the interests of the parties that were not part of the Energy Agreement in establishing the schedule for this proceeding."²⁰

Accordingly, after reviewing the three proposed regulatory schedules, the commission adopts HDA's schedule, as it provides the parties with additional time to review, analyze and address the issues and to develop and support their respective positions on these issues to allow for the development of a sound record in this proceeding. As pointed out by HDA, its proposal also includes the opportunity for panel hearings, which is an important part of any investigatory docket.

²⁰Id. at 2.

The commission, however, modifies HDA's proposed schedule in several respects. Notably, the commission deletes the January 14, 2009 requirement that the HECO Companies and Consumer Advocate file straw tariff sheets and requirements related to that filing. In the commission's view, these steps are premature as there has been no determination on the issue of whether feed-in tariffs should be adopted. By including such deadlines early in the proceeding, as suggested by the parties, it presumes the outcome of this proceeding. Accordingly, the filing of straw tariff sheets and related deadlines are deleted. In addition, the commission has included deadlines for post-hearing opening and reply briefs, and has adjusted other deadlines to accommodate those filings.

The following schedule replaces Exhibit A to the HECO Companies' SPO and governs this proceeding unless otherwise ordered by the commission:

	PROCEDURAL STEPS	DEADLINE
1.	HECO Companies and Consumer Advocate Filing to Describe Proposal on Key Feed-In Tariff Design Issues, Policies and Pricing Methodologies	December 23, 2008
2.	Parties' Comments to Commission Scoping Paper	December 31, 2008
3.	Response to Commission Scoping Paper Appendix C Legal Questions	January 12, 2009

4.	Response to Commission Scoping Paper Appendices A and C (Non-Legal Questions)	January 26, 2009
5.	Information Requests to HECO/CA Regarding Joint Proposal	January 28, 2009
6.	Responses to Information Requests	February 11, 2009
7.	All Parties' Opening Statements of Position Including Proposals for Feed-in Tariff Designs, Policies and Pricing Methods	February 25, 2009
8.	Information Requests by All Parties to Parties' SOPs and Proposals	March 4, 2009
9.	Responses to Information Requests	March 13, 2009
10.	Technical Conference and Settlement Discussions Regarding All Parties' Proposals	March 18-19, 2009
11.	All Parties' Final Statements of Positions Regarding Feed-in Tariff Designs, Policies and Specific Pricing Proposals	March 30, 2009
12.	Prehearing Conference	Week of April 6, 2009
13.	Panel Hearing	Week of April 13, 2009 (until completed)

14.	Opening Briefs	May 1, 2009
15.	Reply Briefs	May 8, 2009
16.	HECO's Proposed Tariffs Implementing Commission's Decision	June 17, 2009
17.	Technical Conference on Proposed Tariffs	June 24, 2009
18.	Comments by Parties on Proposed Tariffs	July 8, 2009
19.	Replies to Comments	July 17, 2009

III.

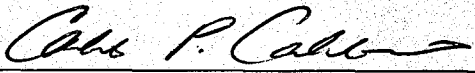
Order

THE COMMISSION ORDERS:

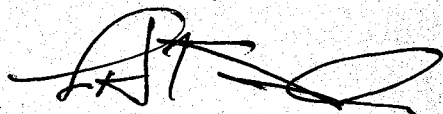
The HECO Companies' proposed Stipulated Prehearing Order, attached as Exhibit 1, is approved as modified herein, consistent with the terms of this Order.

DONE at Honolulu, Hawaii JAN 20 2009.

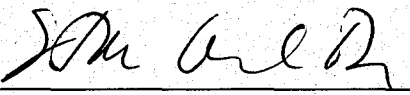
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

2008-0273.cp

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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)	
PUBLIC UTILITIES COMMISSION)	Docket No. 2008-0273
)	
Instituting Proceedings to Investigate the)	
Implementation of Feed-In Tariffs)	
_____)	

STIPULATED PROCEDURAL ORDER

EXHIBIT "A"

and

CERTIFICATE OF SERVICE

Filed _____, 200__

At _____ o'clock _____.M.

Chief Clerk of the Commission

EXHIBIT A

----- In the Matter of -----)

PUBLIC UTILITIES COMMISSION)

Instituting Proceedings to Investigate the)

Implementation of Feed-In Tariffs)


-----)

Docket No. 2008-0273

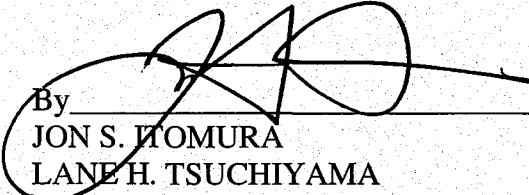
Hawaiian Electric Company, Inc. (“HECO”), Maui Electric Company, Limited (“MECO”), Hawaii Electric Light Company, Inc. (“HELCO”), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the “Consumer Advocate”), the Department of Business Economic Development and Tourism (“DBEDT”), City and County of Honolulu (“City”), County of Hawaii (“Hawaii County”), Hawaii Holdings dba First Wind Hawaii (“First Wind”), and Semptra Generation (“Semptra”) hereby

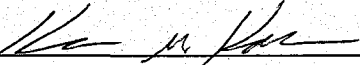
stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

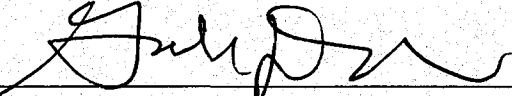
Dated: Honolulu, Hawaii, December 22, 2008.

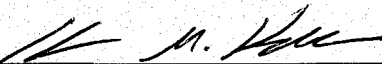
By 
THOMAS W. WILLIAMS, JR.
PETER Y. KIKUTA

ROD S. AOKI
Attorneys for Hawaiian Electric
Company, Inc., Maui Electric
Company, Ltd., Hawaii Electric Light
Company, Inc.

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JON S. HOMURA
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By 
MARK J. BENNETT
DEBORAH DAY EMERSON
GREGG J. KINKLEY
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Economic Development & Tourism

By 
CARRIE K. S. OKINAGA
GORDON D. NELSON
Attorneys for the City and County of
Honolulu

By 
LINCOLN T. ASHIDA
WILLIAM V. BRILHANTE, JR.
Attorneys for the County of Hawaii

By _____
WARREN S. BOLLMEIER II
Hawaii Renewable Energy Alliance

By _____
HENRY Q CURTIS
Life of the Land

By _____
CARL FREEDMAN
Haiku Design & Analysis

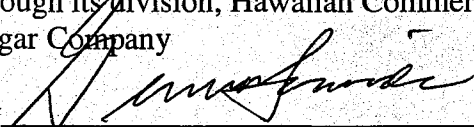
By _____
JOHN N. REI
Sopogy, Inc.

By _____
CHRIS MENTZEL
Clean Energy Maui LLC

By _____
ERIK KVAM
Zero Emissions Leasing LLC

By _____
SANDRA-ANN Y.H. WONG
Attorney for Alexander & Baldwin, Inc.
through its division, Hawaiian Commercial &
Sugar Company

By _____
DOUGLAS A. CODIGA
Attorney for Blue Planet Foundation

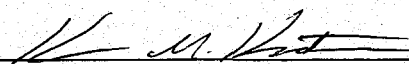
By  _____
GERALD A. SUMIDA
TIM LUI-KWAN
NATHAN C. NELSON
Attorneys for Hawaii Holdings, LLC dba First
Wind Hawaii

By _____
KENT D. MORIHARA
KRIS N. NAKAGAWA
SANDRA L. WILHIDE
Attorneys for Maui Land & Pineapple
Company, Inc.

By _____
RILEY SAITO
The Solar Alliance

By _____
HARLAN Y. KIMURA
Attorney for Tawhiri Power LLC

By _____
MARK DUDA
Hawaii Solar Energy Association

for By  _____
THEODORE E. ROBERTS
Sempra Generation

By _____
KENT D. MORIHARA
KRIS N. NAKAGAWA
SANDRA L. WILHIDE
Attorneys for Hawaii Bioenergy, LLC

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_____)	

STIPULATED PROCEDURAL ORDER

By the Order Initiating Investigation, filed on October 24, 2008 (“Order”), the Commission instituted this proceeding to investigate the 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”)(collectively “HECO Companies”).

As discussed in the Order, on October 20, 2008, the Governor of the State of Hawaii, the State of Hawaii Department of Business, Economic Development and Tourism (“DBEDT”), the State of Hawaii Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (“Consumer Advocate”) and the HECO Companies entered into a comprehensive agreement (“Agreement”) designed to move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward “indigenously produced renewable energy and an ethic of energy efficiency.”¹ A product of the Hawaii Clean Energy Initiative, the Agreement is a commitment on the part of the State and the HECO Companies to

¹ Order at 1-2 (quotations in original)(footnote omitted)

accelerate the addition of new, clean resources on all islands; to transition the HECO Companies away from a model that encourages increased electricity usage; and to provide measures to assist consumers in reducing their electricity bills.²

Included in the Agreement is a commitment by the HECO Companies to implement feed-in tariffs to accelerate the addition of renewable energy from new sources and to encourage increased development of alternative energy projects. The Order describes a feed-in tariff as a “set of standardized, published purchased power rates, including terms and conditions, which the utility will pay for each type of renewable energy resource based on project size fed to the grid.”³

As stated in the Agreement:

[F]eed-in tariffs are beneficial for the development of renewable energy, as they provide predictability and certainty with respect to the future prices to be paid for renewable energy and how much of such energy the utility will acquire. The parties agree that feed-in tariffs should be designed to cover the renewable energy producer’s costs of energy production plus some reasonable profit, and that the benefits to Hawaii from using a feed-in tariff to accelerate renewable energy development (from lowering oil imports, increasing energy security, and increasing both jobs and tax base for the state), exceed the potential incremental rents paid to the renewable providers in the short term.⁴

In their Agreement, the HECO Companies and the Consumer Advocate request that, by March 2009, the commission:

conclude an investigative proceeding to determine the best design for feed-in tariffs that support the Hawaii Clean Energy Initiative, considering such factors as categories of renewables, sizes or locational limits for projects qualifying for the feed-in tariff, how to manage and identify project development milestones relative to the queue of projects wishing to take the feed-in tariff terms, what annual limits should apply to the amount of renewables allowed to take the feed-in tariff terms, what factors to incorporate into the prices set for feed-in tariff payments, and the terms, conditions, and duration of the feed-in tariff that shall be offered to all qualifying renewable projects, and the continuing role of the Competitive Bidding Framework.⁵

² Order at 2 (footnote omitted)

³ Order at 2 (quotations in original)(footnote omitted)

⁴ Order at 2-3 (footnote omitted)

⁵ Order at 3 (footnote omitted)

The HECO Companies and the Consumer Advocate also agreed that they would request that the commission “adopt a set of feed-in tariffs and prices that implement the conclusions of the feed-in tariff investigation by July 2009.”⁶

Given the HECO Companies and the Consumer Advocate’s agreements, the Commission found it appropriate to institute this proceeding to address the issues related to implementation of feed-in tariffs in the HECO Companies’ service territories. In addition, to expedite the process, the commission directed the HECO Companies and the Consumer Advocate to submit to the commission a joint proposal on feed-in tariffs that addresses all of the factors identified in their Agreement within sixty days of the date of the Commission’s Order. The Commission directed that the joint proposal should take into account the considerations and criteria set forth in a scoping paper on feed-in tariffs that will be issued by the commission in this docket.⁷

Since they were signatories to the Agreement, and will be impacted by the outcome of this investigation, the commission named as parties to this proceeding: HECO, HELCO, MECO, and the Consumer Advocate.⁸

By its November 28, 2008 Order Granting Intervention (“Order Granting Intervention”), the Commission granted the motions to intervene as a party of the Department Of Business Economic Development And Tourism (“DBEDT”), City And County Of Honolulu (“City”), County Of Hawaii (“Hawaii County”), Hawaii Renewable Energy Alliance (“HREA”), Life Of The Land (“LOL”), Haiku Design And Analysis (“Haiku”), Sopogy, Inc. (“Sopogy”), Clean Energy Maui LLC (“Clean Energy”), Zero Emissions Leasing LLC (“Zero Emissions”),

⁶ Order at 3 (quotations in original)(footnote omitted)

⁷ Order at 3-4

⁸ Order at 5-6

Alexander & Baldwin Through Its Division Hawaiian Commercial & Sugar Company (“HC&S”), Blue Planet Foundation (“Blue Planet”), Hawaii Holdings dba First Wind Hawaii (“First Wind”), Maui Land & Pineapple Company (“Maui Land”), The Solar Alliance (“Solar Alliance”), Tawhiri Power (“Tawhiri”), Hawaii Solar Energy Association (“HSEA”), Sempra Generation (“Sempra”) And Hawaii Bioenergy, LLC (“Hawaii Bioenergy”) (collectively “Parties”).⁹

The Order states that within forty-five days from the date of the Order, the Parties 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 are unable to stipulate, each of them shall file proposed orders for the commission’s review and consideration within the same deadline.¹⁰ The Order Granting Intervention extended the deadline for filing a stipulated procedural order until December 22, 2008.¹¹

The parties agree that the following provisions of this Stipulated Procedural Order are mutually acceptable to each.

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

I. STATEMENT OF THE ISSUES

The issues in this docket, which shall be liberally construed within context, are:

⁹ Order Granting Intervention at Ordering Paragraph 1

¹⁰ Order at 7

¹¹ Order Granting Intervention at Ordering Paragraph 2.

1. The issues which the Commission has identified in Exhibit C to its December 11, 2008 paper entitled “Feed-In Tariffs: Best Design Focusing Hawaii’s Investigation” (Scoping Paper).
2. What, if any, modifications are prudent and/or necessary to existing federal or state laws, rules, regulations or other requirements to remove any barriers or to otherwise facilitate the implementation of a feed-in tariff?
3. What is the best design for feed-in tariffs that support the acceleration and increased development of indigenous renewable energy resources in Hawaii, and their integration in the utility systems?
4. What categories of renewable energy resources should be eligible to participate in a feed-in tariff?
5. Should there be any limits on size, or location, or level of interconnection for renewable energy projects qualifying for the feed-in tariff? If so, what should those limits be and how should those limits be set?
6. How should project development milestones relative to the queue of projects wishing to take the feed-in tariff terms be managed and identified?
7. Should annual limits apply to the amount of renewables allowed to take the feed-in tariff terms? If so, how would these annual limits be set? How will other renewable projects be treated once these limits are met?
8. What factors should be incorporated into the prices set for feed-in tariff payments?
9. What should be the terms, conditions, interconnection requirements, procedures and duration of the feed-in tariff that should be available to qualifying renewable providers?
10. What is the continuing role of the Competitive Bidding Framework given any implementation of a feed-in tariff?
11. What should the relationship be between the proposed feed-in tariff and net energy metering?
12. Whether there should be a process or procedure to allow for the evaluation of the feed-in tariff program over time.

II. SCHEDULE OF PROCEEDINGS

The parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule hereto attached as Exhibit "A". Notwithstanding the above, the parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing and approved by the Commission from time to time. However, the intent of the parties in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources and to meet the deadlines set forth in the Agreement. Therefore any changes to the schedule should be proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

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

A. Requests for Information

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. 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. If the parties are unable to agree, the responding party, as applicable, may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the party to respond.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), 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 shall make the diskette or such electronic medium available to the other parties and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all cell references and formulae intact, and will not be converted to values prior to submission. A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record. 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.

For each response to an information request, the responding party should identify the person who is responsible for preparing the response as well as the witnesses who will be responsible for sponsoring the response at the evidentiary hearing.

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 to some or all representatives of the party pursuant to a protective order.

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

The responses of each party to information requests shall adhere to a uniform system of numbering agreed upon by the parties. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1" and a response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document, indicating the name of the respondent for each response.

B. Copies of Documents and Statements of Position

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Original + 8 copies

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C. Filings. All documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-16 of the Commission's Rules of Practice and Procedure and 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.

Copies of all documents should be sent to the Commission and Division of Consumer Advocacy by hand delivery or United States mail (first class, postage prepaid). The Parties

stipulate and agree that service of documents between Parties, other than documents designated as confidential pursuant to any protective order adopted in this proceeding, shall be served electronically via e-mail in a portable document format (“pdf”) by 5:00 p.m. on the day due. The Parties agree to use Word 97, Word 2000 or Word 2003 as the standard programming format for filings in this case and will submit their information requests to the other Parties in this format. The Parties also agree to submit any spreadsheets (e.g., used as workpapers or exhibits) in Microsoft Excel format. 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 need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified.

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. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by

the Parties in writing and approved by the Commission, or upon the Commission's own motion.

This Stipulated Procedural Order may be executed by the Parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The Parties may execute this Stipulated Procedural Order by facsimile for initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

APPROVED AND SO ORDERED THIS _____,
at Honolulu, Hawaii.

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
Commission Counsel

EXHIBIT A

Stipulated Regulatory Schedule Proceeding to Investigate the Implementation of Feed-In Tariffs Docket No. 2008-0273

	PROCEDURAL STEPS	DEADLINE
1.	HECO Companies and Consumer Advocate Filing to Describe Proposal on Key Feed-In Tariff Design Issues, Policies and Pricing Methodologies	December 23, 2008
2.	Parties' Comments on Commission Scoping Paper	December 31, 2008
3.	Respond to Commission Scoping Paper Appendix C Legal Questions	January 12, 2009
4.	HECO Companies and Consumer Advocate File Straw Tariff Sheets and Methodologies	January 14, 2009
5.	Parties' Informal Questions to be addressed at Technical Meeting	January 16, 2009
6.	Technical Meeting to Explain Tariff Sheets and Respond to Questions from parties	January 20, 2009
7.	Respond to Commission Scoping Paper Appendices A and C (Non-Legal Questions)	January 26, 2009
8.	Parties' Comments on Straw Tariff Sheets and/or Simultaneous Distribution of Alternative Straw Tariff Sheets	January 30, 2009
9.	Simultaneous Information Requests by the Parties (limited to 5 questions to each party with no subparts)	February 6, 2009
10.	Settlement Discussions	February 13, 2009
11.	Simultaneous Response to Information Requests	February 27, 2009
12.	Filing of Settlement Agreement or Simultaneous Statements of Position	March 13, 2009

	PROCEDURAL STEPS	DEADLINE
13.	Commission Completion of Deliberations and Decision on Design of Feed-in Tariffs	March 31, 2009
14.	HECO Companies and Consumer Advocate Request that the Commission Adopt a Set of Feed-In Tariffs and Prices that Implement the Commission's Decision	April 24, 2009
15.	Technical Workshop on Tariff Sheets (to explain and clarify Tariff sheets to Parties)	May 8, 2009
16.	Parties' Comments on HECO Companies and Consumer Advocate Request that the Commission Adopt a Set of Feed-In Tariffs and Prices that Implement the Commission's Decision	May 29, 2009
17.	HECO Companies and Consumer Advocate Reply Comments	July 6, 2009
18.	Commission Adoption of Feed-In Tariffs and Prices that Implement the Commission's Decision	July 31, 2009

CERTIFICATE OF SERVICE

The foregoing Stipulated Procedural Order was served on the date of filing by mail, postage prepaid, and properly addressed or electronically transmitted to each such Party.

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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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