

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Approval of Biofuel Co-Firing)
Project Contracts and to Include)
Contracts Costs in Hawaiian)
Electric's Energy Cost Adjustment)
Clause.)

DOCKET NO. 2008-0331

ORDER DISMISSING APPLICATION

RECEIVED

2009 JAN 26 A 9: 09

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

PUBLIC UTILITIES
COMMISSION

2009 JAN 23 A 10: 39

FILED

("Throughput Contract"); (3) a biofuel terminalling agreement that will provide for movement of the biofuel from the storage tank at the terminalling facility to the storage facilities at the Kahe power plant ("Terminalling Contract"); and (4) the inclusion of the costs of biofuel, transportation, storage, terminalling fees, throughput fees and related taxes in HECO's Energy Cost Adjustment Clause ("ECAC").²

HECO explains that the Kahe 3 Biofuel Co-Firing Project "will test palm oil derived biofuel(s) blended with low sulfur fuel oil ("LSFO") to determine the maximum biofuel/LSFO blend that can be used at Kahe 3 and other steam electric generation units on the Hawaiian Electric system."³ Through the Application, HECO requests approval of the Contracts that will supply the fuel necessary for the Biofuel Co-Firing Project.

The Application indicates that the Contracts have not yet been successfully negotiated and completed. HECO states in the Application that it will submit redacted versions of the Contracts upon their successful negotiation and completion.⁴ HECO further states that it will submit an estimate of the incremental costs associated with the Biofuel Contract,

²The Biofuel Contract, Throughput Contract, and Terminalling Contract are collectively referred to as the "Contracts."

³Application at 2.

⁴According to HECO, it will submit unredacted, executed copies of the Contracts pursuant to a protective order.

Throughput Contract, and Terminalling Contract shortly after the Contracts are submitted to the commission.

HECO requests expedited approval on the Application by April 15, 2009 so that it can begin testing in November 2009.

On January 20, 2009, LIFE OF THE LAND ("LOL") filed a Motion to Intervene in this proceeding ("LOL's Motion").

On January 21, 2009, HECO and the Consumer Advocate submitted a Stipulation for Protective Order ("Stipulation") for the commission's review and approval.

II.

Discussion

At this time, the commission finds that the filing of the Application is premature. While the commission understands HECO's desire to begin the procedural steps with respect to this matter as soon as possible, an application for commission approval of the Contracts, without submittal of the Contracts, is improper. While in the past the commission has allowed submittal of supporting exhibits after the filing of an application, in this instance, the Contracts are material and essential to HECO's requests in the Application. Moreover, allowing HECO to proceed in this manner may be prejudicial to entities and persons interested in filing a motion to intervene or participate without intervention in this proceeding.

Based on the foregoing, the commission concludes that HECO's Application filed December 31, 2008, should be dismissed, without prejudice.⁵

III.

Orders

THE COMMISSION ORDERS:

1. HECO's Application, filed on December 31, 2008, is dismissed, without prejudice.
2. This docket is closed, unless otherwise ordered by the commission.

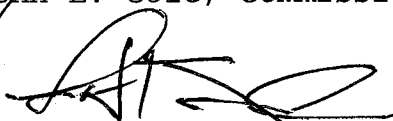
⁵Given the commission's decision herein, the commission need not address LOL's Motion or the Parties' Stipulation.

DONE at Honolulu, Hawaii JAN 23 2009.

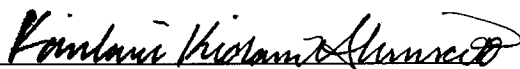
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

2008-0331.1aa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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

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

CRAIG I. NAKANISHI, ESQ.
RUSH MOORE LLP
737 Bishop Street, Suite 2400
Honolulu, HI 96813

Attorney for HAWAIIAN ELECTRIC COMPANY, INC.

HENRY Q. CURTIS
VICE PRESIDENT FOR CONSUMER ISSUES
LIFE OF THE LAND
76 North King Street, Suite 203
Honolulu, HI 96817