

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 GRANTING THE COUNTY OF HAWAII'S MOTION
FOR APPROVAL TO AMEND ITS STATUS AS AN INTERVENOR
TO A PARTICIPANT, FILED ON APRIL 8, 2009; GRANTING THE
CITY AND COUNTY OF HONOLULU'S MOTION FOR APPROVAL TO AMEND ITS
STATUS AS AN INTERVENOR TO A PARTICIPANT, FILED ON APRIL 8, 2009;
AMENDING HAWAII HOLDINGS, LLC, DOING BUSINESS AS FIRST WIND
HAWAII AND SEMPRA GENERATION'S STATUS AS INTERVENORS TO
PARTICIPANTS; AND AMENDING THE SCHEDULE IN THIS PROCEEDING

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PUBLIC UTILITIES
COMMISSION

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AMENDING HAWAII HOLDINGS, LLC, DOING BUSINESS AS FIRST WIND
HAWAII AND SEMPRA GENERATION'S STATUS AS INTERVENORS
TO PARTICIPANTS; AND AMENDING THE PROCEDURAL SCHEDULE

By this Order, the commission grants the COUNTY OF
HAWAII ("County") and the CITY and COUNTY OF HONOLULU's ("City")
respective motions for approval to amend their status from
intervenors to participants, which were filed on April 8, 2009.
In addition, the commission sua sponte amends the status of
HAWAII HOLDINGS, LLC, DOING BUSINESS AS FIRST WIND HAWAII
("First Wind") and SEMPRA GENERATION ("Sempra") from intervenors
to participants.

The commission also amends the schedule in this
proceeding, as described herein.

I.

Motions

On April 8, 2009, the County filed a Motion for Approval to Amend its Status as an Intervenor to a Participant ("County's Motion"). According to the County:

The County is involved in a variety of programs designed to produce energy primarily for the use of County owned facilities with any excess to be fed into the applicable electric grid. The County anticipated the advent of a significant facility which would generate electrical energy on the Island of Hawai'i, this facility did not pass [the] County Council and will not be built as anticipated. Additional generating capacity is planned on a variety of County facilities which are not active at this time but will be actively producing electrical energy at some time in the future.¹

Likewise, on April 8, 2008, the City filed its Motion for Approval to Amend its Status as an Intervenor to a Participant ("City's Motion"). According to the City:

On the basis of its assessment that, as things currently stand in this proceeding, it would not likely submit one of its projects under the feed-in tariff, the City has not retained or named an expert for the upcoming panel hearings in this proceeding. The City believes that until such time as it appears that the feed-in tariff will take a form that will clearly directly impact one of its projects, its interests can hereafter best be served by monitoring further proceedings, rather, than actively participating in them as a party.²

The County and City request, however, that they be allowed to participate in the following manner: (1) monitoring

¹County Motion at 2.

²City Motion at 3.

the proceeding by receiving filings by the commission and other parties to ensure, among other things, that their interests and/or rights (financially or otherwise) are adequately protected, and (2) allowing them "to file any permitted statement in accordance with the Stipulated Regulatory Schedule approved by the Commission in this proceeding."³

Based on the County and City's representations and the lack of any opposition to the Motions, the commission grants the Motions in their entirety. The County and City's status in this proceeding is amended from intervenor to participant. The County and City shall continue to receive all filings by the commission and the other parties to the docket and may file "any permitted statement in accordance with the Stipulated Regulatory Schedule approved by the Commission in this proceeding."

II.

First Wind and Semptra

In granting intervention status to First Wind and Semptra, the commission stated that it "expects that all Intervenor will fully participate in the docket, and will comply with the commission's rules and orders" and that "failure to do so may constitute cause for the commission to reconsider its decision to grant an Intervenor intervention status."⁴

³County Motion at 2; City Motion at 3-4.

⁴Order Granting Intervention, filed on November 28, 2008, at 6.

Here, intervenors, who have not been willing or able to participate in the panel hearings, filed motions to amend their status from intervenors to participants prior to the panel hearings. In contrast, First Wind did not participate in the one-week panel hearings held on April 13-17, 2009; nor did it participate in the prehearing conference or provide any notice to the commission that it would not be participating in either the prehearing conference or the panel hearings. Semptra also did not participate in the panel hearings, but did participate in the prehearing conference and provided written notice to the commission in advance of the hearings that its witness would be unable to attend.

In both circumstances, the commission and its consultants were required to prepare for the panel hearings as if First Wind and Semptra would be participating. As First Wind and Semptra did not provide witnesses at the panel hearings, the commission was unable to question their witnesses regarding their respective positions, as articulated in their prehearing briefs. Accordingly, as Semptra and First Wind have not "fully participate[d]" as required by the commission in its Intervention Order, the commission will sua sponte amend their status from intervenors to participants, but will allow the same amount of participation granted to the County and City. First Wind is cautioned, however, that continued failure to participate in this proceeding may be grounds for further action by the commission.

III.

Schedule

By Order Approving the HECO Companies' Proposed Procedural Order, As Modified, filed on January 20, 2009, the commission approved, 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"),⁵ the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), the DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM ("DBEDT"), the City, the County, Sempra, and First Wind. The commission, however, modified the Statement of Issues, and adopted the Regulatory Schedule proposed by HAIKU DESIGN AND ANALYSIS ("HDA") with certain modifications. With respect to the schedule, the commission noted that, "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."⁶

⁵HECO, MECO and HELCO are collectively referred to as the "HECO Companies."

⁶Order Approving the HECO Companies' Proposed Procedural Order, As Modified, filed on January 20, 2009, at 10.

The commission issued the following schedule to govern the proceeding:

	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

	PROCEDURAL STEPS	DEADLINE
9.	Responses to Information Requests	March 13, 2009
10.	All Parties' Final Statements of Positions Regarding Feed-in Tariff Designs, Policies and Specific Pricing Proposals	March 30, 2009
11.	Prehearing Conference	Week of April 6, 2009
12.	Panel Hearing	Week of April 13, 2009 (until completed)
13.	Opening Briefs	May 1, 2009
14.	Reply Briefs	May 8, 2009
15.	HECO's Proposed Tariffs Implementing Commission's Decision	June 17, 2009
16.	Technical Conference on Proposed Tariffs	June 24, 2009
17.	Comments by Parties on Proposed Tariffs	July 8, 2009
18.	Replies to Comments	July 17, 2009

On April 13-17, 2009, the commission held panel hearings in this proceeding. At the conclusion of the hearings, the commission's consultant, the National Regulatory Research Institute ("NRRI"), raised a concern that had been articulated by certain parties that there was insufficient time built into the existing schedule to allow for proper briefing and decision-making on the numerous and complex issues raised in the docket.

Given that some of the parties indicated a desire to adjust the schedule, at the request of one of the parties, commission staff sent an email on April 17, 2009, to all of the parties to the docket, setting forth a proposed revised schedule drafted by NRRI. Commission staff requested that any comments to the schedule be provided by close of business on April 20, 2009 (given the May 1, 2009 deadline for Opening Briefs). Based on the responses received, it appeared that, with the exception of Zero Emissions, all parties favored modifying the remainder of the procedural schedule, as suggested by NRRI, with modifications suggested by the Consumer Advocate and the HECO Companies. Accordingly, on April 20, 2009, commission staff emailed to all parties a revised schedule that incorporated all comments received, and indicated that, unless additional comments were received otherwise by close of business on Wednesday, April 22, 2009, commission staff would inform the commission that the parties favored (or at least did not oppose) modifying the remainder of the procedural as follows:

Parties' Submissions of Information	May 8, 2009
Opening Briefs	May 22, 2009
Reply Briefs	June 5, 2009
PUC Decision on General Principles	July 2009
Settlement discussions to apply PUC principles to actual tariffs	Begin July 2009
Filing of Proposed Tariffs (and Standard Contract) and Alternative Tariffs	September 1, 2009
Parties' Comments on Proposed Tariffs	September 9, 2009

No objections to the revised schedule were received by commission staff.

In reviewing the existing schedule, the commission agrees that, given the numerous and inter-related issues raised in this docket, it would be extremely difficult for the parties to provide the commission with the necessary information upon which it could make an informed decision in the time frame allocated by the schedule. As was apparent at the hearings, the commission lacks some necessary information and, as such, requested that certain information be provided subsequent to the hearings and in post-hearing briefs. Given that the existing schedule, for example, only allows for fourteen calendar days

between completion of the hearings and the filing of opening briefs (even less if time is counted from the filing of transcripts), to allow the parties additional time to address the issues raised at the hearing, and to provide the commission with sufficient briefing to resolve the issues, the commission will modify the schedule in the manner described above. In the commission's view, it is in the best interest of all of the parties as well as the utilities' ratepayers, for the commission to have the necessary record to make a sound decision in this matter.⁷

III.

Orders

THE COMMISSION ORDERS:

1. The County of Hawaii's Motion for Approval to Amend its Status as an Intervenor to a Participant, filed on April 8, 2009, is granted.

2. The City and County of Honolulu's Motion for Approval to Amend its Status as an Intervenor to a Participant, filed on April 8, 2009, is granted.

3. First Wind and Semptra's status in this proceeding is amended from intervenor to participant.


⁷This schedule does not preclude the parties from coming to agreement on limited initial tariffs that can accommodate some renewables entry, and presenting those tariffs to the commission after its July order.

4. The Regulatory Schedule as set forth in the Order Approving the HECO Companies' Proposed Procedural Order, As Modified, filed on January 20, 2009, is amended as follows:

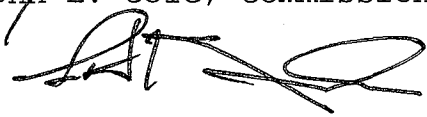
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Parties' Comments on Proposed Tariffs	September 9, 2009

DONE at Honolulu, Hawaii APR 27 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.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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