

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting a Proceeding To)
 Consider the Energy Independence)
 and Security Act of 2007 Standards.)
 _____)

DOCKET NO. 2009-0029

DECISION AND ORDER

FILED

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PUBLIC UTILITIES
COMMISSION

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 PUBLIC UTILITIES COMMISSION) Docket No. 2009-0029
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DECISION AND ORDER

By this Decision and Order, the commission declines to adopt the four new federal standards set forth in section 111(d) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Independence and Security Act of 2007 ("EISA"), regarding (1) Integrated Resource Planning ("IRP"), (2) rate design modifications to promote energy efficiency investments ("Energy Efficiency Investments"), (3) Smart Grid Investments, and (4) Smart Grid Information.¹

I.

Background

On February 11, 2009, the commission initiated this investigation to determine whether the four new standards under section 111(d) of PURPA should be implemented.² The commission,

¹See PURPA, Pub. L. No. 95-617, § 111(d), 92 Stat. 3121 (November 9, 1978), as amended by EISA, Pub. L. No. 110-140, §§ 532, 1307, 121 Stat. 1665, 1791 (December 19, 2007) (codified as amended at 16 U.S.C. § 2621(d)).

²See Order Initiating Investigation, filed on February 11, 2009.

sua sponte, named the following as parties to this proceeding: (1) Hawaiian Electric Company, Inc. ("HECO"); (2) Hawaii Electric Light Company, Inc. ("HELCO"); (3) Maui Electric Company, Ltd. ("MECO")³; (4) Kauai Island Utility Cooperative ("KIUC")⁴; and (5) the Division of Consumer Advocacy, Department Of Commerce and Consumer Affairs ("Consumer Advocate").⁵

³Collectively, HECO, HELCO, and MECO are hereafter referred to as the "HECO Companies."

⁴KIUC is a Hawaii not-for-profit electric cooperative engaged in the production, transmission, distribution, purchase, and sale of electric energy on the island of Kauai. The commission understands that KIUC's total sales of electric energy do not exceed 500 million kilowatt-hours ("kwh"). See In re Kauai Island Utility Cooperative, Docket No. 2006-0165, Order Declining to Adopt PURPA Standards on Fuel Diversity and Fossil Fuel Generation Efficiency, filed on July 21, 2008, at 2, n.4. Because PURPA applies only to electric utilities whose total annual retail sales of electric energy exceeds 500 million kwh during any calendar year, KIUC is not subject to PURPA standards. See 16 U.S.C. § 2612(a).

Nevertheless, because KIUC is a provider of electric utility service in the State of Hawaii ("State") and would be impacted by the outcome of this investigation, the commission included KIUC as a party to this proceeding to assist the commission in evaluating the public policy considerations and in developing a sound record.

⁵The Consumer Advocate is an ex officio party to all commission dockets, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. The HECO Companies, MECO, and the Consumer Advocate are hereafter collectively referred to as the "Parties".

A.

EISA

The EISA added four new standards under section 111(d) of PURPA for state commissions to consider. These standards state, in relevant part:

(16) Integrated resource planning

Each electric utility shall--

- (A) integrate energy efficiency resources into utility, State, and regional plans; and
- (B) adopt policies establishing cost-effective energy efficiency as a priority resource.

(17) Rate design modifications to promote energy efficiency investments

(A) In general

The rates allowed to be charged by any electric utility shall --

- (i) align utility incentives with the delivery of cost-effective energy efficiency; and
- (ii) promote energy efficiency investments.

(B) Policy options

In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider --

- (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;
- (ii) providing utility incentives for the successful management of energy efficiency programs;

- (iii) including the impact on adoption of energy efficiency as [one] of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;
- (iv) adopting rate designs that encourage energy efficiency for each customer class;
- (v) allowing timely recovery of energy efficiency-related costs; and
- (vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

(16)⁶ Consideration of smart grid investments

(A) In general

Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including --

- (i) total costs;
- (ii) cost-effectiveness;
- (iii) improved reliability;
- (iv) security;
- (v) system performance; and
- (vi) societal benefit.

⁶So in original; two paragraphs numbered (16).

(B) Rate recovery

Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) Obsolete equipment

Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

(17)⁷ Smart Grid information

(A) Standard

All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) Information

Information provided under this section, to the extent practicable, shall include:

(i) Prices

Purchasers and other interested persons shall be provided with information on --

- (I) time-based electricity prices in the wholesale electricity market; and

⁷So in original; two paragraphs numbered (17).

(II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) Usage

Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) Intervals and Projections

Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) Sources

Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including green-house gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) Access

Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

Under PURPA, the commission is required to consider each of the foregoing standards and make a determination as to whether or not it is appropriate to implement such standard.⁸ The commission is also required to complete its determination no later than December 19, 2009.⁹

In its Order Initiating Investigation, the commission requested that the Parties provide a statement of their respective positions, if any, on whether the commission should adopt, modify, or decline to adopt in whole or part, the standards set forth above, as well as any procedural comments and suggestions as to how the issues should be considered in this docket or in a separate proceeding.

KIUC filed its Statement of Position on May 12, 2009 and the HECO Companies filed their Statement of Position via a letter dated May 14, 2009. The Consumer Advocate subsequently filed its Statement of Position on May 15, 2009. In general, the Parties all contend that the adoption of the four new federal standards is not appropriate or necessary to carry out the underlying objectives of PURPA, and that there are existing proceedings and/or authority under state law for the commission to address these standards.¹⁰

⁸See 16 U.S.C. § 2621(a).

⁹See 16 U.S.C. § 2622(b)(6)(B).

¹⁰See KIUC's Statement of Position, at 4; HECO Companies' Statement of Position, at 5; and the Consumer Advocate's Statement of Position, at 2.

II.

Discussion

A.

IRP

The first PURPA standard is the IRP standard set forth in 16 U.S.C. § 2621(d)(16). The purpose of this standard is to integrate energy efficiency resources into IRP processes and to make cost-effective energy efficiency a priority.

By 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"), and required electric and gas utilities in the State to develop IRP plans in accordance with the IRP Framework. The framework was further modified as to KIUC by Decision and Order No. 22490, filed on May 26, 2006, in Docket No. 05-0075. According to the IRP Framework, the "goal of integrated resource planning is the identification of the resources or the mix of resources for meeting near and long term consumer energy needs in an efficient and reliable manner at the lowest reasonable cost."¹¹

Moreover, the commission is currently considering the HECO Companies, KIUC, and the Consumer Advocate's request to replace the existing IRP Framework with a new Clean Energy Scenario Planning ("CESP") process.¹² An issue in that proceeding

¹¹IRP Framework, Section II.A., at 3.

¹²See In re Hawaiian Electric Company, Inc., Docket No. 2007-0084, Order Closing Docket, filed on November 26, 2008; In re Hawaii Electric Light Company, Inc., Docket No. 04-0046,

is the role of energy efficiency and the State's energy efficiency administrator (i.e., public benefits fee ("PBF") administrator, see HRS § 269-121, et seq.) in utility planning. Given that pending proceeding in which the commission is considering the PURPA IRP standard, the commission finds that the adoption of the federal IRP standard is unnecessary at this time.

B.

Energy Efficiency Investments

The second PURPA standard considered by the commission in this proceeding is the Energy Efficiency Investments standard set forth in 16 U.S.C. § 2621(d)(17). The underlying policy objective of the Energy Efficiency Investments standard is to encourage electric utilities to align their retail rates and incentives with the delivery of cost-effective energy efficiency, and to "remov[e] the throughput incentive and other regulatory and management disincentives to energy efficiency." 16 U.S.C. §§ 2621(d)(17)(A)(i) and 2621(d)(17)(B)(i).

Under traditional ratemaking practices, utilities often have limited incentive to invest in energy efficiency programs due to the link between a utility's sales and its earnings. A

Order Closing Docket, filed on November 26, 2008; In re Maui Electric Company, Limited, Docket No. 04-0077, Order Closing Docket, filed on December 8, 2008; and In re Kauai Island Utility Cooperative, Docket No. 2006-0165, Order Denying Request to Suspend Proceeding and Closing Docket, filed on February 18, 2009 (requiring KIUC to participate in the development of the new CESP framework). See also In re Public Utilities Commission, Docket No. 2009-0108, Order Initiating Investigation, filed on May 14, 2009 (initiating an investigation to examine proposed amendments to the IRP Framework).

decrease in a utility's energy sales due to the implementation of energy efficiency programs may result in a decrease in the utility's earnings, thereby creating a built-in disincentive for the utility to offer or encourage customer participation in energy conservation measures. The federal Energy Efficiency Investment standard aims to remove such disincentives and encourage utilities to invest in energy efficiency programs.

Upon review, the commission finds that it is not necessary to adopt this standard. State law grants the commission with broad authority to set "[a]ll rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility[.]"¹³ As such, the commission already possesses the requisite ratemaking authority and power to adopt rate design modifications and policies that promote energy efficiency.

Furthermore, the commission has approved, or is otherwise in the process of considering, various programs which would achieve the same objectives as the federal Energy Efficiency Investment standard. For example, the commission has initiated an investigation to examine the implementation of a decoupling mechanism for the HECO Companies which would modify the traditional rate-making model by separating the utility's revenues and profits from its electricity sales.¹⁴

¹³See HRS § 269-16(a).

¹⁴See In re Public Utilities Commission, Docket No. 2008-0274, Order Initiating Investigation, filed on October 24, 2008.

The commission also transferred energy efficiency demand-side management ("DSM") programs from the HECO Companies to a third-party PBF administrator, in accordance with HRS §§ 269-121 through 269-124.¹⁵ The adoption of a non-utility market structure for the administration of energy efficiency DSM programs is expected to "remove the perceived inherent conflict between a utility's desire to generate revenues and income, and Energy Efficiency measures that serve to decrease sales and defer the need for additional plant investment, . . . facilitate the introduction of innovative Energy Efficiency programs to the State, . . . and improve the cost-effectiveness of administering DSM programs."¹⁶

Based on the foregoing, it is clear that the commission has already taken specific steps towards promoting energy

¹⁵See In re Hawaiian Electric Co., Inc., Docket No. 05-0069, Order No. 23258, filed on February 13, 2007 ("Order No. 23258"), at 35-36, 140-143, and 148 (adopting a non-utility market structure for administering all of the HECO Companies' energy efficiency programs, excluding load management programs). See also In re Public Utilities Commission, Docket No. 2007-0323, Order No. 23681, filed on September 26, 2007 (initiating an investigation to select a PBF administrator and to implement a new market structure for the HECO Companies' energy efficiency DSM programs).

¹⁶See Order No. 23258, at 35-36.

efficiency and achieving the same objectives established by 16 U.S.C. § 2621(d)(17). Accordingly, the commission finds that the adoption of the federal Energy Efficiency Investments standard is unnecessary.

C.

Smart Grid Investments

The third PURPA standard considered by the commission in this proceeding is the Smart Grid Investments standard set forth in 16 U.S.C. § 2621(d)(16).¹⁷ Under this standard, the commission must consider whether electric utilities should be required to examine qualified smart grid technologies before investing in traditional transmission and distribution systems. The standard also requires the commission to consider allowing utilities to recover the costs of smart grid investments and the remaining book-value of equipment rendered obsolete by smart grid investments.

Upon review, the commission finds that it is not necessary to adopt this standard because the commission is presently reviewing an application by the HECO Companies for approval of an Advanced Meter Infrastructure Project ("AMI").¹⁸ As the HECO Companies note in their Statement of Position, an AMI system is a communications network that "links endpoint devices (such as meters) and business systems to allow the collection and

¹⁷So in original; probably should be 16 U.S.C. § 2621(d)(18).

¹⁸See In re Hawaiian Electric Company, Inc., Docket No. 2008-0303 (Application, filed on December 1, 2008).

distribution of information to customers and utilities.”¹⁹ The HECO Companies contend that such a system will provide greater information to customers and will assist customers “in changing their energy usage from normal consumption patterns, either in response to changes in price, or in response to incentives designed to encourage lower energy usage. . . .”²⁰

In addition to AMI, the commission is also considering the HECO Companies’ Dynamic Pricing Pilot (“DPP”) Program, which is a demand response program that provides peak time customer incentives, or rebates.²¹ Dynamic pricing is a mechanism that is designed to reduce load during critical demand periods by providing monetary incentives to customers for every kilowatt-hour saved during an applicable time period.²²

According to the HECO Companies, one of the purposes of the DPP program is to “[v]alidate the ability of AMI meters to collect and transmit accurate time-based energy consumption information to the [HECO Companies’] billing system.”²³ If the program is approved, the HECO Companies indicate that they would

¹⁹See HECO Companies’ Statement of Position, at 7.

²⁰Id. at 8.

²¹See In re Hawaiian Electric Company, Inc., Docket No. 2008-0074, Application, filed on April 24, 2008 (hereafter referred to as the “DPP Application”).

²²See HECO Companies’ Statement of Position, at 10.

²³See DPP Application, at 5. On June 5, 2009, the commission ordered HECO to submit an amended application to address the recommendations and concerns raised in the Consumer Advocate’s Statement of Position filed on February 18, 2009. See Order Directing HECO to Modify Its Dynamic Pricing Pilot Program, filed on June 5, 2009 in Docket No. 2008-0074.

begin installing AMI meters after the DPP program is implemented.²⁴

Because the commission has broad authority under HRS Chapter 269 to consider smart grid investments, and is already considering specific proposals, the commission finds that the adoption of the federal Smart Grid Investments standard is unnecessary.

D.

Smart Grid Information

The fourth PURPA standard is the Smart Grid Information standard set forth in 16 U.S.C. § 2621(d)(17).²⁵ This standard is intended to provide consumers with access to information regarding pricing, usage, intervals, and sources (including generation type and greenhouse gas emissions), either in writing or in electronic form. The underlying policy objective is to "empower customers to make more intelligent energy decisions and have greater control over their electricity use and costs."²⁶

For the same reasons stated in Section II.C, the commission finds that it is not appropriate or necessary to adopt the federal Smart Grid Information standard.

²⁴Id. at 9.

²⁵So in original; probably should be 16 U.S.C. § 2621(d)(19).

²⁶See HECO Companies' Statement of Position, at 8.

III.

Orders

THE COMMISSION ORDERS:

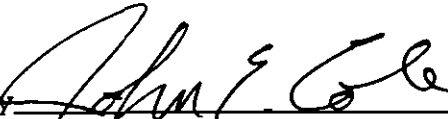
1. The commission declines to adopt, for the HECO Companies and KIUC, the federal standards set forth in 16 U.S.C §§ 2621(d)(16) - (17), regarding (1) IRP, (2) Energy Efficiency Investments, (3) Smart Grid Investments, and (4) Smart Grid Information.

2. This docket is closed.


DONE at Honolulu, Hawaii SEP 30 2009.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


By
Leslie H. Kondo, Commissioner


Bonita Y.M. Chang
Commission Counsel

2009-0029.cp

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

DARCY L. ENDO-OMOTO
VICE PRESIDENT, GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, HI 96840-0001

JAY IGNACIO
PRESIDENT
HAWAIIAN ELECTRIC LIGHT COMPANY, INC.
P.O. Box 1027
Hilo, HI 96721-1027

EDWARD L. REINHARDT
PRESIDENT
MAUI ELECTRIC COMPANY, LTD.
P.O. Box 398
Kahului, HI 96732

RANDALL J. HEE, P.E.
PRESIDENT AND CEO
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street, Suite 1
Lihue, HI 96766-2000

Certificate of Service

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TIMOTHY BLUME
MICHAEL YAMANE
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street, Suite 1
Lihue, HI 96766-2000

KENT D. MORIHARA, ESQ.
KRIS N. NAKAGAWA, ESQ.
DANA O. VIOLA, ESQ.
MORIHARA LAU & FONG LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813

Attorneys for
KAUAI ISLAND UTILITY COOPERATIVE