

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding to)
Investigate the Proposed Tariffs)
Filed by Kauai Island Utility)
Cooperative and Other Related)
Matters.)
_____)

DOCKET NO. 2006-0498

DECISION AND ORDER NO. 24238

Filed May 22, 2008
At 11:30 o'clock A .M.

Karen Higash
Chief Clerk of the Commission

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DECISION AND ORDER

By this Decision and Order, the commission approves the interconnection tariff proposed by KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") and the other parties to this docket (except HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"), as modified herein, to govern the interconnection of distributed generation facilities operating in parallel with the electric utility's system.¹ KIUC shall incorporate the revisions mandated by the commission in Section II.A of this Decision and Order, as explained herein.

¹The Parties in this proceeding are: (1) KIUC; (2) HREA; (3) the COUNTY OF KAUAI; (4) CHAPEAU, INC., dba BLUEPOINT ENERGY, STARWOOD HOTELS AND RESORTS WORLDWIDE, INC., and the HAWAII HEALTH SYSTEMS CORPORATION (collectively, the "BluePoint Energy Intervenors"); (5) MARRIOTT HOTELS SERVICES, INC., on behalf of KAUAI MARRIOTT RESORT & BEACH CLUB ("Kauai Marriott"); and (6) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

I.

Background

KIUC is a member-owned, non-profit cooperative that is the provider of electric utility service on the island of Kauai. All electric utility customers on the island of Kauai are members/owners of KIUC, except those customers that have elected against becoming a member/owner.

A.

Docket No. 03-0371

By Decision and Order No. 22248, filed on January 27, 2006, in In re Public Util. Comm'n, Docket No. 03-0371 ("Docket No. 03-0371"), the commission's distributed generation investigative proceeding, the commission "set forth certain policies and principles for the deployment of distributed generation in Hawaii and certain guidelines and requirements for distributed generation, some of which will be further defined by tariff as approved by the commission."² On April 6, 2006, the commission: (1) granted in part and denied in part the motion for clarification filed by the HECO Companies; and

²Docket No. 03-0371, Decision and Order No. 22248, filed on January 27, 2006, at 1. The parties in Docket No. 03-0371 were: (1) Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, the "HECO Companies"); (2) KIUC; (3) the Consumer Advocate; (4) Life of the Land; (5) HREA; (6) Hess Microgen, LLC; and (7) the County of Maui. The County of Kauai was the sole participant.

(2) denied the HECO Companies' motion for partial reconsideration.³

Decision and Order No. 22248 sets forth certain requirements for the electric utilities, including the requirement that the utilities file proposed interconnection and standby service tariffs for the commission's review and approval.

On July 27, 2006, KIUC filed its proposed interconnection tariff.⁴ On August 8, 2006, the commission solicited comments from the parties and participant on whether the commission should adopt, modify, or decline to adopt in whole or in part, the PURPA interconnection standards, including the extent to which the electric utilities have already met the PURPA interconnection standards.⁵ On September 8, 2006: (1) KIUC responded to the commission's information requests on KIUC's proposed interconnection tariff;⁶ (2) HREA submitted its comments on KIUC's proposed interconnection tariff; and

³Docket No. 03-0371, Order No. 22375, filed on April 6, 2006.

⁴KIUC's proposed interconnection tariff was based on the Federal Energy Regulatory Commission's ("FERC") Small Generator Interconnection Procedures (For Generating Facilities No Larger Than 20 MW), issued on May 10, 2005, as amended.

⁵The term "PURPA interconnection standards" refers to the federal interconnection standards set forth in Section 111(d)(15) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005 ("EPACT"), which adopt by reference the Institute of Electrical and Electronics Engineers, Inc.'s ("IEEE") Standard 1547, Standard of Interconnection Distributing Resources with Electric Power Systems, "as they may be amended from time to time." 16 U.S.C. § 2621(d)(15).

⁶KIUC, in its response to PUC-IR-108 (KIUC, Interconnection), revised certain provisions of its proposed interconnection tariff. KIUC's response to PUC-IR-108 (KIUC, Interconnection), Attachment PUC-IR-108.

(3) KIUC and the Consumer Advocate submitted comments on the PURPA interconnection standards issue. On October 10, 2006, KIUC filed its supplemental response to PUC-IR-102, consisting of its Supplemental Attachment PUC-IR-102.⁷

On November 9, 2006, the Consumer Advocate commented on KIUC's proposed interconnection tariff, and on November 21, 2006, KIUC responded to the Consumer Advocate's comments thereto.

On November 27, 2006, KIUC filed its proposed revisions to its existing standby service tariff.⁸ On December 8, 2006, the County of Kauai commented on KIUC's proposed standby service tariff.

The commission also received unsolicited comments on KIUC's proposed standby service tariff from third-persons who were not parties or participants to the proceeding. The non-parties, in general, requested hearings on the proposed standby charges, and the opening of a new standby rates docket so that all interested stakeholders would have the opportunity to participate.

⁷KIUC's Supplemental Attachment PUC-IR-102: (1) corrected certain references in its Attachment PUC-IR-102; and (2) effectively superseded Attachment PUC-IR-102.

⁸KIUC presently has a [Standby] Rider S. See Docket No. 03-0371, Decision and Order No. 22248, at 41 - 42 n.64.

B.

Docket No. 2006-0498

1.

Initiation of the Docket

As a result of the concerns raised by the interested, non-party stakeholders, the commission, on December 28, 2006, opened this investigative proceeding to review and address: (1) the proposed interconnection and standby service tariffs filed by KIUC in Docket No. 03-0371; and (2) the PURPA interconnection standards issue.⁹ The commission named KIUC and the Consumer Advocate as parties to Docket No. 2006-0498, and invited interested persons to timely move to intervene or participate.

Following public notice, the commission, on February 27, 2007, held a public hearing on the island of Kauai.

On March 1, 2007, KIUC filed its revised proposed interconnection tariff, jointly developed and agreed-upon with the Consumer Advocate.¹⁰

On May 8, 2007, the commission granted intervention to HREA, the County of Kauai, the BluePoint Energy Intervenors, and Kauai Marriott.¹¹

⁹Order No. 23172, filed on December 28, 2006. Docket No. 2006-0498, in effect, supersedes Docket No. 03-0371. See Docket No. 03-0371, Order No. 23746, filed on October 19, 2007.

¹⁰As a precaution, KIUC filed its revised proposed tariff in both Dockets No. 03-0371 and No. 2006-0498. At this juncture of Docket No. 2006-0498, KIUC and the Consumer Advocate were the only named parties.

¹¹Order No. 23422, filed on May 8, 2007.

On July 27, 2007, the commission, by Decision and Order No. 23563, declined to adopt the PURPA interconnection standards.¹²

2.

Stipulation

On August 29, 2007, KIUC, the County of Kauai, the BluePoint Energy Intervenors, Kauai Marriott, and the Consumer Advocate (collectively, the "Stipulating Parties") jointly filed their Stipulation Regarding Proposed Interconnection Tariff,¹³ in lieu of a proposed procedural schedule. By their Stipulation, the Stipulating Parties submit for the commission's review and approval their agreed-upon proposed interconnection tariff (the "Proposed Interconnection Tariff"). In reaching mutual agreement on the Stipulation, the Stipulating Parties state:

1. In lieu of developing a stipulated procedural schedule for the Commission's review and approval, as set forth by Paragraph 5 of Order No. 23422, the Stipulating Parties are in agreement that Preliminary Issue No. 2 can be

¹²See Decision and Order No. 23563, filed on July 27, 2007. At the same time, the commission noted that its decision declining to adopt the PURPA interconnection standards "does not preclude the parties from recommending that the Commission incorporate standards that are similar to the PURPA standards into the standards ultimately approved by the Commission in this proceeding." Decision and Order No. 23563, at 19 n.29 (quoting KIUC's letter, dated July 13, 2007, at 3).

¹³Stipulation Regarding Proposed Interconnection Tariff; Exhibits A and B; and Certificate of Service, filed on August 29, 2007, as supplemented on September 4, 2007 (collectively, "Stipulation"). Exhibit A is a clean version of the proposed interconnection tariff, while Exhibit B is a black-lined version of the proposed interconnection tariff.

sufficiently addressed and resolved via this Stipulation and without (a) further modifying this issue, (b) performing any discovery on this issue, and (c) establishing additional procedural steps and/or schedule of proceedings including, without limitation, an evidentiary hearing;¹⁴

2. The Stipulating Parties are in agreement that their proposed resolution of all matters encompassed within Preliminary Issue No. 2 is set forth in the Proposed Interconnection Tariff, which is provided in both a clean version (Exhibit "A") and a "black-lined" version (Exhibit "B"), with said "black-lined" version showing the changes made to KIUC's version filed on March 1, 2007;

3. The Stipulating Parties are in agreement that the Proposed Interconnection Tariff attached hereto as Exhibit "A" (clean) and Exhibit "B" (black-lined) is just and reasonable and consistent in principle with the guidelines and requirements set forth in Decision and Order No. 22248 and the applicable state and federal laws including, without limitation, PURPA, as amended by the Energy Policy Act of 2005;

4. The Stipulating Parties are in agreement that the Proposed Interconnection Tariff attached hereto as Exhibit "A" (clean) and Exhibit "B" (black-lined) is consistent with the public interest, and should, therefore, be approved in its entirety as KIUC's final interconnection tariff in this proceeding because, among other things, it sufficiently addresses the distributed generation interconnection matters specific to Hawaii in a comprehensive manner and will allow the Commission to be in compliance with the PURPA interconnection standards.

¹⁴Because HREA had concerns with the Stipulating Parties' Proposed Interconnection Tariff, "KIUC and HREA . . . agreed to address HREA's concerns via position statements for the Commission's review and consideration in lieu of filing a stipulated procedural schedule setting forth dates for discovery, evidentiary hearing, etc."¹⁴ The commission approved this agreement by Order No. 23630, filed on September 5, 2007. Likewise, the Stipulating Parties, by their Stipulation, agree that the interconnection tariff issue "can be sufficiently addressed and resolved via this Stipulation and without (a) further modifying this issue, (b) performing any discovery on this issue, and (c) establishing additional procedural steps and/or schedule of proceedings, including, without limitation, an evidentiary hearing[.]" Stipulation, at 6.

5. The Stipulating Parties are in agreement that each provision of this Stipulation and/or the Proposed Interconnection Tariff is in consideration and support of all other provisions, and is expressly conditioned upon the acceptance and approval by the Commission of all of the material matters expressed in this Stipulation and/or Proposed Interconnection Tariff in their entirety. In the event the Commission declines to approve and/or adopt material parts or all or any of the matters agreed to by the Stipulating Parties and as set forth in this Stipulation and/or the Proposed Interconnection Tariff attached hereto, any or all of the Stipulating Parties reserve the right to withdraw from this Stipulation and to pursue any and all of their respective positions through further negotiations and/or additional filings and proceedings before the Commission. For the purposes of this Stipulation, whether a term is material shall be left to the discretion of the Stipulating Party choosing to withdraw from this Stipulation[.]

Stipulation, at 6-7 (emphasis added).¹⁵

a.

Proposed Interconnection Tariff

According to KIUC, the interconnection tariff it initially proposed in July 2006 and March 2007 was based on FERC's Small Generator Interconnection Procedures

¹⁵As set forth in Order No. 23172, filed on December 28, 2006, the commission identified preliminary issue number 2 as follows:

Whether KIUC's proposed interconnection tariff is just and reasonable and consistent in principle with the guidelines and requirements set forth in Decision and Order No. 22248, filed in Docket No. 03-0371, as clarified in Order No. 22375, filed in the same docket.

Order No. 23172, at 9.

(For Generating Facilities No Larger Than 20 MW).¹⁶ The Proposed Interconnection Tariff, in turn, "incorporates revisions agreed to by the Stipulating Parties to address the various comments/suggestions provided by the Parties during and subsequent to the collaborative sessions including, without limitation, the addition of timelines, revisions to exhibits/standardized agreements to include the most recent and applicable FERC amendments, an agreement to limit the applicability of said Tariff to only distributed generation to allow KIUC additional flexibility, and various clarifications and other revisions to KIUC's version of its Proposed Interconnection Tariff filed on March 1, 2007[.]"¹⁷

Similar to FERC's SGIP, the Proposed Interconnection Tariff consists of Distributed Generation Interconnection Policies and Procedures (For Distributed Generation Facilities No Larger Than 20 MW) ("Policies and Procedures"),

¹⁶See FERC Docket No. RM02-12-000, Standardization of Small Generator Interconnection Agreements and Procedures, Order No. 2006, issued on May 12, 2005, as amended by Order No. 2006-A, issued on November 22, 2005, and by Order No. 2006-B, issued on July 20, 2006. FERC's documents include as appendices: (1) Appendix E, Small Generator Interconnection Procedures (For Generating Facilities No Larger Than 20 MW); and (2) Appendix F, Small Generator Interconnection Agreement (For Generating Facilities No Larger Than 20 MW). Appendices E and F are collectively referred to as "FERC's SGIP."

¹⁷Stipulation, at 5 (footnote and text therein omitted).

plus nine attachments, including a standard Interconnection Agreement (For Distributed Generation Facilities No Larger Than 20 MW) ("Interconnection Agreement").¹⁸

The Policies and Procedures consist of four sections: (1) Section 1, Application; (2) Section 2, Fast Track Process; (3) Section 3, Study Process; and (4) Section 4, Provisions that Apply to All Interconnection Requests.

1).

Section 1, Application

Section 1 outlines three different application procedures: (1) a request to interconnect a certified Small Generating Facility no larger than 2 MW, will be evaluated under the Fast Track Process under Section 2;¹⁹ (2) a request to interconnect a certified inverter-based Small Generating Facility

¹⁸Specifically: (1) Attachment 1, Glossary of Terms; (2) Attachment 2, Small Generator Interconnection Request (Application Form); (3) Attachment 3, List of Certification Codes and Standards; (4) Attachment 4, List of Certification of Small Generator Equipment Packages; (5) Attachment 5, Application, Procedures, and Terms and Conditions for Interconnecting a Certified Inverter-Based Small Generating Facility No Larger than 10 kW ("10 kW Inverter Process"); (6) Attachment 6, Feasibility Study Agreement; (7) Attachment 7, System Impact Study Agreement; (8) Attachment 8, Facilities Study Agreement; and (9) Attachment 9, Interconnection Agreement (For Distributed Generation Facilities No Larger Than 20 MW).

¹⁹Attachment 3, List of Certification Codes and Standards, and Attachment 4, List of Certification of Small Generator Equipment Packages, outlines the certification criteria. The Section 2, Fast Track Process, is defined as "[t]he procedure for evaluating an Interconnection Request for a certified Small Generating Facility no larger than 2 MW that includes the Section 2 screens, customer options meeting, and optional supplemental review." KIUC's Policies and Procedures, Attachment 1, Glossary of Terms, at 1.

no larger than 10 kW, will be evaluated under the 10 kW Inverter Process;²⁰ and (3) a request to interconnect a Small Generating Facility larger than 2 MW but no larger than 20 MW, or a Small Generating Facility that does not qualify for the Fast Track Process or the 10 kW Inverter Process, will be evaluated under the Section 3, Study Process.²¹ The application process is initiated by the customer completing and submitting the Interconnection Request (Attachment 2) to KIUC, with a non-refundable processing fee for the Section 2, Fast Track Process, or a deposit to be applied towards the cost of the feasibility study under the Section 3, Study Process.²² The Interconnection Request (Attachment 2) will be deemed complete upon the adequate submission of the information specified in the Interconnection Request form.

²⁰The 10 kW Inverter Process is defined as "[t]he procedure for evaluating an Interconnection Request for a certified inverter-based Small Generating Facility no larger than 10 kW that uses the Section 2 screens. The application process uses an all-in-one document that includes a simplified Interconnection Request, simplified procedures, and a brief set of terms and conditions. See Attachment 5 of the Policies and Procedures." KIUC's Policies and Procedures, Attachment 1, Glossary of Terms, at 1. "The 10 kW Inverter Process is available only for the inverter-based Small Generating Facilities no larger than 10 kW that meet the codes, standards, and certification requirements of Attachments 3 and 4 of the Policies and Procedures, and when KIUC has reviewed the design or tested the proposed Small Generating Facility and is satisfied that it is safe to operate." Policies and Procedures, Attachment 5, 10 kW Inverter Process, at 4.

²¹The Section 3, Study Process, is defined as "[t]he procedure for evaluating an Interconnection Request that includes the Section 3 scoping meeting, feasibility study, system impact study, and facilities study." Policies and Procedures, Attachment 1, Glossary of Terms, at 3.

²²Upon review of Attachment 5, it appears that a processing fee or deposit is not required under the 10 kW Inverter Process.

2).

Section 2, Fast Track Process

The Fast Track Process under Section 2 will apply to a customer if the customer's facility is no larger than 2 MW and if the customer's facility meets the codes, standards, and certification requirements set forth in Attachments 3 and 4, or if KIUC has reviewed the design or tested the customer's facility and is satisfied that it is safe to operate. Upon the receipt of a completed Interconnection Request (Attachment 2), KIUC will undertake and complete an initial review utilizing certain criteria designated as "screens."²³

Following the completion of the initial review under the Section 2, Fast Track Process:

1. If the proposed interconnection passes the screens, KIUC will approve the Interconnection Request and provide the customer with an executable Interconnection Agreement (Attachment 9);
2. If the proposed interconnection fails the screens, but KIUC determines that the customer's facility may nevertheless be interconnected with the utility's system, consistent with safety, reliability, and power quality standards, KIUC will approve the Interconnection Request and provide the customer with an executable Interconnection Agreement (Attachment 9); or
3. If the proposed interconnection fails the screens, and KIUC does not or is unable to determine whether the customer's facility may nevertheless be interconnected with the utility's system, consistent with safety, reliability, and power quality standards, unless the customer is willing to consider modifications as well as to possibly undertake the Section 3, Study Process, or

²³See Policies and Procedures, subsection 2.2.1, Screens, at 6-7.

a lesser supplemental review process, or both, KIUC will provide the customer with the opportunity to attend a customer options meeting under subsection 2.3.

Under subsection 2.3, if KIUC determines that the Interconnection Request cannot be approved at that time, KIUC will: (1) notify the customer accordingly and provide the customer with copies of all data and analyses underlying KIUC's conclusion; and (2) provide the customer with the opportunity to meet and determine the additional steps needed to interconnect the customer's facility with the utility's system in a safe and reliable manner. As part of this process, KIUC will:

1. Offer to perform facility modifications or minor modifications to the utility's system at the customer's expense (e.g., changing meters, fuses, relay settings), and provide a non-binding good faith estimate of the costs to complete the necessary modifications to KIUC's system;
2. Offer to perform a supplemental review at the customer's expense if KIUC concludes that the supplemental review might determine that the customer's facility may continue to qualify for interconnection under the Section 2, Fast Track Process, without the need to proceed with the Section 3, Study Process, and provide a non-binding good faith estimate of the costs of the supplemental review;²⁴ or

²⁴The customer is responsible for the actual costs of the supplemental review conducted by KIUC, up to a maximum of ten percent over the good-faith estimate previously provided by KIUC. Following the completion of the supplemental review, KIUC will determine whether the customer's facility can be interconnected safely and reliably with the utility's system, whether as is, or subject to facility modifications by the customer (at the customer's expense) or minor modifications to the utility system by KIUC (at the customer's expense). Under any of these scenarios, KIUC will forward an executable Interconnection Agreement (Attachment 9) to the customer. Conversely, if none of these situations apply, KIUC will continue its review of the customer's interconnection request under the Section 3, Study Process. See Policies and Procedures, subsection 2.4, Supplemental Review, at 9-10.

3. Obtain the customer's agreement to evaluate the interconnection request under the Section 3, Study Process.

3).

Section 3, Study Process

The Section 3, Study Process, applies where the customer's facility: (1) is larger than 2 MW but not larger than 20 MW; (2) is not certified; or (3) is certified but did not pass the Section 2, Fast Track Process, or the Attachment 5, 10 Kw Inverter Process.

Scoping Meeting

The process is initiated by a scoping meeting between KIUC and the customer to "discuss whether KIUC has reasonable grounds from a reliability, safety and/or power quality standpoint to perform a feasibility study or proceed directly to a system impact study of KIUC's Transmission System, Distribution System, or both, or a facilities study, or an interconnection agreement."²⁵

If the parties agree that a Feasibility Study should be performed, KIUC will complete and provide the customer with the Feasibility Study Agreement (Attachment 6) that includes

²⁵Policies and Procedures, subsection 3.2.2, Scoping Meeting, at 11. The scoping meeting may be omitted only upon the parties' mutual agreement, in which case, in order to remain in consideration for interconnection, the customer must execute the Feasibility Study Agreement (Attachment 6). If the parties agree to perform a System Impact Study on KIUC's transmission or distribution systems, or both, KIUC will provide the customer with a System Impact Study Agreement (Attachment 7) that includes the scope of the study and a non-binding, good-faith estimate of the cost to complete the study. The customer is responsible for KIUC's actual costs for conducting the study, up to a maximum of ten percent over KIUC's good-faith estimate.

the scope of the study and a non-binding, good-faith estimate of the cost to complete the study. The customer is responsible for KIUC's actual costs for conducting the Feasibility Study, up to a maximum of ten percent over KIUC's good-faith estimate. In the event the parties are unable to agree on whether to "perform a feasibility study or to proceed directly to a system impact study, or a facilities study, or to an interconnection agreement, then the greater of the requirements being proposed shall control (e.g., if one Party believes that a feasibility study shall be performed while the other does not, then a feasibility study shall be performed.)"²⁶

Feasibility Study

The purpose of the Feasibility Study is to identify any potential adverse system impacts from a safety, reliability, and power quality standpoint, which will result from the interconnection of the customer's facility with the utility's system. If the Feasibility Study shows no potential for adverse system impacts, KIUC will provide the customer with a Facilities Study Agreement (Attachment 8) that includes the scope of the Facilities Study and a non-binding, good-faith estimate of the cost to complete the study. The customer is responsible for KIUC's actual costs for conducting the Facilities Study, up to a maximum of ten percent over KIUC's good-faith estimate.

²⁶KIUC's Policies and Procedures, subsection 3.2.2, Scoping Meeting, at 11.

In the event that no additional facilities are required, KIUC will provide the customer with an executable Interconnection Agreement (Attachment 9). Conversely, if the Feasibility Study shows the potential for adverse system impacts, the review process will proceed to the appropriate system impact study or studies.

System Impact Study

The purpose of the System Impact Study is to identify and detail the electric system impacts to KIUC's transmission or distribution systems, or both, from a safety, reliability, and power quality standpoint, that will result if the customer's facility is interconnected without project or electric system modifications.

If it is initially determined that no Distribution System Impact Study is required, but potential distribution system adverse system impacts are subsequently identified in the scoping meeting or shown in the Feasibility Study or Transmission System Impact Study, KIUC will provide the customer with a Distribution System Impact Study Agreement (Attachment 7) that includes the scope of the study and a non-binding, good-faith estimate of the cost to complete the study. The customer is responsible for KIUC's actual costs for conducting the Distribution System Impact Study, up to a maximum of ten percent over KIUC's good-faith estimate.

In instances where it is initially determined that no Transmission System Impact Study is required, but the scoping meeting, Feasibility Study, or the Distribution System Impact Study, subsequently shows the potential for transmission system adverse impacts, KIUC will provide the customer with a Transmission System Impact Study Agreement (Attachment 7) that includes the scope of the study and a non-binding, good-faith estimate of the cost to complete the study, if such a study is required. The customer is responsible for KIUC's actual costs for conducting the Transmission System Impact Study, up to a maximum ten percent over KIUC's good-faith estimate.

If the Feasibility Study shows no potential for transmission system and distribution system adverse system impacts, KIUC will provide the customer with either a *Facilities Study Agreement* (Attachment 8) that includes the scope of the study and a non-binding, good-faith estimate of the cost to complete the study, or an executable *Interconnection Agreement* (Attachment 9).

Facilities Study

Once the required system impact study or studies are completed, KIUC will prepare and provide to the customer a System Impact Study Report, together with a *Facilities Study Agreement* (Attachment 8), that includes the scope of the study and a non-binding, good-faith estimate of the cost to complete

the Facilities Study.²⁷ The interconnecting customer is responsible for KIUC's actual costs for conducting the Facilities Study, up to a maximum of ten percent over KIUC's good-faith estimate.

The Facilities Study will specify and estimate the cost of the equipment, engineering, procurement, and construction work necessary to implement the conclusions of the system impact study or studies. The Facilities Study will also identify: (1) the electrical switching configuration of the equipment, including, without limitation, transformer, switchgear, meters, and other station equipment; (2) the nature and estimated cost of KIUC's interconnection facilities and upgrades necessary to accomplish the interconnection; and (3) an estimate of the time required to complete the construction and installation of such facilities.

Once the Facilities Study is completed, KIUC will prepare and provide to the customer a Facilities Study Report. Thereafter, subject to the customer's agreement to pay for the interconnection facilities and upgrades identified in the Facilities Study, KIUC will provide the customer with an executable Interconnection Agreement (Attachment 9).

²⁷"In the case where a facilities study is determined to be unnecessary based on the results of the system impact study(s), a notice of the fact shall be transmitted by KIUC together with the system impact study report" to the customer. Policies and Procedures, subsection 3.5.1, Facilities Study, at 14.

4).

Section 4, Provisions that Apply
to All Interconnection Procedures

In general, Section 4 consists of provisions applicable to dispute resolution;²⁸ interconnection metering; commissioning tests; the treatment of information designated as

²⁸Section 4.1 of the dispute resolution process includes subsections 4.1.3 and 4.1.5, which state:

4.1.3 If the dispute has not been resolved within 10 Business Days after receipt of the Notice [of Dispute], either Party shall have the right to request that the Commission serve as an arbiter of last resort. In such an event, the Commission will use an informal expedited process to resolve the dispute within 30 days of the date of the request. In doing so, the Commission shall have the right to authorize its Chairman, or his/her designee (which designee may be another Commissioner, a member of the Commission staff, a Commission hearings officer, or a Commission hired consultant) to take any such action on behalf of the Commission, in consultation with other Commissioners and Commission staff. There shall be no right to hearing or appeal from this informal expedited dispute resolution process.

4.1.5 If neither Party elects to seek assistance from the Commission, or if the attempted dispute resolution process fails, then either Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of these Policies and Procedures.

Policies and Procedures, subsections 4.1.3 and 4.1.5, at 15. Subsections 4.1.3 and 4.1.5 are generally consistent with the corresponding subsections set forth in FERC's SGIP, provided that subsection 4.1.3 is tailored specifically to the commission being the arbiter of last resort for the informal expedited dispute resolution process, instead of FERC. In addition, subsection 4.1.3 appears to adopt the similar language and procedures set forth in Section VI, Dispute Resolution Process, of the commission's Framework for Competitive Bidding, dated December 8, 2006.

confidential ("Confidential Information");²⁹ the comparable treatment of all Interconnection Requests; the retention of records; procedures for executing the Interconnection Agreement; procedures for determining the aggregate capacity of the customer's facility or facilities; requests for information from the customer to KIUC;³⁰ and notices.

²⁹With respect to Confidential Information, subsection 4.4.2.2 provides:

4.4.2.2 Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

Policies and Procedures, subsection 4.4.2.2, at 17; accord Policies and Procedures, Attachment 9, Interconnection Agreement, Article 9.2.2. Subsection 4.4.2.2 is adopted from the corresponding subsection in FERC's SGIP.

³⁰Section 4.9, Requests for Information, states:

KIUC shall designate an employee and/or department from which a status or information on the application process can be obtained from KIUC through informal requests from the Interconnection Customer presenting a proposed project for a specific site. Electric system information provided to the Interconnection Customer should include relevant system studies, interconnection studies, and other materials useful to an understanding of an interconnection at a particular point on KIUC's Transmission and Distribution System, to the extent such provision does not violate confidentiality provisions of prior agreements or critical infrastructure requirements. KIUC shall comply with reasonable requests for such information within a reasonable period of time.

Policies and Procedures, Section 4.9, Requests for Information, at 18.

5).

Interconnection Agreement

KIUC's Interconnection Agreement consists of fourteen Articles³¹ and six exhibits.³² In general, the Interconnection Agreement governs the terms and conditions upon which the customer's facility will interconnect with and operate in parallel with the utility's transmission or distribution systems, or both; provided that the Interconnection Agreement will not apply to the 10 kW Inverter Process. Moreover, the Interconnection Agreement does not constitute an agreement by the utility to purchase the customer's power, i.e., it is not a power purchase agreement.

³¹Article 1, Scope and Limitations of Agreement; Article 2, Inspection, Testing, Authorization and Right of Access; Article 3, Effective Date, Term, Termination, and Disconnection; Article 4, Cost Responsibility for Interconnection Facilities and Distribution Upgrades; Article 5, Cost Responsibility for Network Upgrades; Article 6, Billing, Payment, Milestones, and Financial Security; Article 7, Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default; Article 8, Insurance; Article 9, Confidentiality; Article 10, Disputes; Article 11, Taxes; Article 12, Miscellaneous; Article 13, Notices; and Article 14, Signatures.

³²Exhibit 1, Glossary of Terms; Exhibit 2, Description and Costs of the Small Generating Facility, Interconnection Facilities, and Metering Equipment; Exhibit 3, One-line Diagram Depicting the Small Generating Facility, Interconnection Facilities, Metering Equipment, and Upgrades; Exhibit 4, Milestones; Exhibit 5, Additional Operating Requirements for the Cooperative's Transmission System and/or Distribution System Needed to Support the Interconnection Customer's Needs; and Exhibit 6, Cooperative's Description of its Upgrades and Best Estimate of Upgrade Costs.

The customer shall construct, operate, and maintain its facility and its interconnection facilities in accordance with: (1) the applicable manufacturer's recommended maintenance schedule; (2) the Interconnection Agreement; and (3) Good Utility Practice or Good Distributed Generation Practice, as those terms are defined in Exhibit 1 of the Interconnection Agreement. The utility shall construct, operate, and maintain its transmission and distribution systems and its interconnection facilities in accordance with the Interconnection Agreement and Good Utility Practice.

The customer shall pay for the costs of the interconnection facilities; provided that the costs "may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and [KIUC]."³³ The customer is likewise responsible for its share of all reasonable expenses (including overheads) associated with owning, operating, maintaining, repairing, and replacing its own and the utility's interconnection facilities.

The utility shall design, procure, construct, install, and own: (1) any necessary Distribution Upgrades, with the actual cost of the Distribution Upgrades (including overheads) assigned to the customer; and (2) any necessary

³³Policies and Procedures, Attachment 9, Interconnection Agreement, subsection 4.1.1, at 7.

Network Upgrades, with the actual cost of the Network Upgrades (including overheads) initially borne by the customer, unless the utility in its discretion pays for the Network Upgrades.³⁴

The Interconnection Agreement includes:

(1) cross indemnification and limitation of damage and liability provisions; and (2) an insurance provision, requiring the customer to maintain general liability insurance in an amount sufficient to insure against all reasonable foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. In the alternative, a customer of sufficient credit-worthiness may propose to self-insure, and such a proposal shall not be unreasonably rejected by the utility.

³⁴"Upgrades" are defined as "[t]he required additions and modifications to [KIUC's] Transmission and/or Distribution System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities." Policies and Procedures, Attachment 9, Interconnection Agreement, Attachment 1, Glossary of Terms, at 3.

"Distribution Upgrades" are defined as "[t]he additions, modifications, and upgrades to [KIUC's] Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Small Generating Facility and render the transmission service necessary to effect the Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution Upgrades do not include Interconnection Facilities." Id. at 1.

"Network Upgrades" are defined as "[a]dditions, modifications, and upgrades to [KIUC's] Transmission and/or Distribution System required at or beyond the point at which the Small Generating Facility interconnects with [KIUC's] Transmission and/or Distribution System to accommodate the interconnection of the Small Generating Facility with [KIUC's] Transmission and/or Distribution System. Network Upgrades do not include Distribution Upgrades." Id. at 2.

The Interconnection Agreement shall take effect when executed by the contracting parties and shall remain in effect until terminated.

3.

HREA's Position

HREA is the only party that did not sign or agree to the Stipulation.³⁵ Instead, on September 6, 2007, HREA filed its Statement of Position on the Stipulation Regarding Proposed Interconnection Tariff.³⁶

HREA is in agreement on most matters relevant to the interconnection of distributed generation systems with KIUC's grid, as reflected in the Stipulation. Nonetheless, HREA expresses its concerns about the cost responsibilities the Proposed Interconnection Tariff will place on the customer. Instead:

HREA supports the following overall approach. The Interconnection Customer shall own, operate and be responsible for any Interconnection Facilities on its side of the Interconnection Point. Similarly, [KIUC] shall own, operate and be responsible for any Interconnection Facilities on its side of the Interconnection Point. [KIUC] shall also be responsible for the actual costs of any Distribution Upgrades, regardless of their location.

HREA's Statement of Position, at 4.

³⁵See Stipulation, at 5 n.10, and 8.

³⁶Statement of Position of HREA on Stipulation Regarding Proposed Interconnection Tariff; and Certificate of Service, filed on September 6, 2007 (collectively, "Statement of Position").

In support of its position, HREA asserts that:

- (1) distributed generation provides a number of benefits to KIUC;
- (2) for each interconnecting customer, the commission should recognize these benefits now, in this Decision and Order, so that the customer is able to apply to the utility for a system benefits credit; and
- (3) imposing costs for interconnection facilities on the utility's side of the interconnection point and distribution upgrades constitute a barrier to the deployment of distributed generation.

Finally, HREA "requests that the Commission reconsider its decision from the DG Docket, in light of the overall need to encourage [the] further deployment of [distributed generation]."³⁷

³⁷HREA's Statement of Position, at 6. HREA specifically refers to Section II.H.1 of Decision and Order No. 22248, filed in Docket No. 03-0371, which states:

1. Interconnection Costs

Interconnection agreements are necessary to ensure appropriate coordination between the utility and the customer-generator. The costs of interconnection vary with the size of the project.

The commission hereby requires that each utility require the interconnecting customer to pay for all costs of interconnecting, including the costs of system upgrades or network upgrades; however, if the interconnecting customer or generator can show that there are benefits to the utility system for such upgrades, it may apply to the utility for a credit reflecting these benefits, subject to commission approval.

Docket No. 03-0371, Decision and Order No. 22248, Section II.H.1, at 41.

4.

KIUC's Reply

On September 27, 2007, KIUC filed its Reply to HREA's Statement of Position,³⁸ in compliance with Order No. 23630, filed on September 5, 2007. In its Reply, KIUC counters that: (1) the cost allocation provisions set forth in Attachment 9, Interconnection Agreement, of the Proposed Interconnection Tariff, were prepared in accordance with Decision and Order No. 22248, as clarified by Order No. 22375; (2) "HREA's request is premature and should be determined on a case-by-case basis by the specific project rather than as an across-the-board determination as advocated by HREA[;]"³⁹ and (3) HREA's request to reconsider the commission's decision in Docket No. 03-0371 is clearly untimely, and otherwise fails to meet the standard required for the granting of a motion for reconsideration.

5.

EPA's Comments

By Order No. 23172, the commission explained to the Parties that the United States Environmental Protection Agency ("EPA"), as part of the EPA-State Energy Efficiency and

³⁸KIUC's Statement in Response to HREA's Statement of Position on Stipulation Regarding Proposed Interconnection Tariff; Exhibit A; and Certificate of Service, filed on September 27, 2007 (collectively, "Reply").

³⁹KIUC's Reply, at 4.

Renewable Energy Projects, of which Hawaii is one of the states selected for this program, will assist the commission in its review of the proposed tariffs.⁴⁰

The EPA, following its review of the tariffs, provided its observations on the following three areas: (1) the Proposed Interconnection Tariff; (2) HREA's Statement of Position; and (3) KIUC's Reply.⁴¹ With respect to the Proposed Interconnection Tariff, the EPA notes that it is very similar to FERC's SGIP, but that some significant differences exist. As observed by the EPA:

. . . . The most significant departure from the FERC rule is the frequent elimination or expansion of deadlines for the interconnection process, including application review and delivery of an executable interconnection agreement. The end result is that the overall process could [take] much longer and the end point being left uncertain. It is not clear what reasoning KIUC and the stipulating parties have for making this change. This has the potential to be problematic, as it does not provide certainty to the interconnection process which will likely affect the number of projects that would be installed in the state. Similarly, the KIUC tariff eliminates the Queue Position section altogether (FERC section 1.6), which is a shortcoming in the proposal. In the FERC rule, this section is key to assigning cost responsibilities for system upgrades or other facilities costs.

Two additional high level observations on elements that are missing from the proposal when compared to current best practice interconnection rules (Oregon proposed rule, Maryland proposed rule and the Mid-Atlantic Distributed Resources Initiative [MADRI] model) is the Level 3 (Oregon) or 3A (MADRI) (non-exporting) fast track, and the Oregon rule addition of a field certification category (which Maryland also includes). These states have found that smaller systems place less of a burden of the system and hence the

⁴⁰Order No. 23172, at 7 n.14.

⁴¹See Order No. 23780, Exhibit.

interconnection process can be expedited to completion. Again, it is unclear what reasoning KIUC and the stipulating parties have for making this change. The field certification category is an improvement that could be well-suited for an island utility.

Order No. 23780, Exhibit, at 2 (footnotes and citations therein omitted) (emphasis added).

With respect to HREA's Statement of Position, the EPA notes:

HREA states that there are collateral benefits from DG that the utility may enjoy but may not pay the DG owner for. Where these benefits can be quantified, they could be accounted for and the Commission could recognize them as HREA has requested and adopt a policy of an explicit incentivization of renewables through the cost allocation provisions of the rule. Overall, HREA's position seems to rely on these policy calls for the Commission and is not a criticism of the KIUC proposed tariff itself.

Order No. 23780, Exhibit, at 2.

Finally, with respect to KIUC's Reply, the EPA notes:

Based on prior Commission policy, KIUC describes that credits could be available for DG projects based on benefits to the system from the interconnection facilities (e.g., distribution upgrades, etc.). This is consistent with approaches taken in other states. However, without additional requirements from the Commission (e.g. information on transmission constraints/planned upgrades, etc.), this seems very unlikely. Currently, there is no requirement that KIUC identify or compute the benefits to the electric system from an interconnected "caused" upgrade to facilities. It would be up to the customer to argue for this, and perhaps compute it as well, absent the Commission directing KIUC to complete the analysis. Commission policy may be to give the DG project credit if there are system benefits, however, language requiring KIUC to do the analysis in a transparent fashion and share the results with the customer would be helpful if this is the desired outcome. This has been pursued in parts of the country.

. . . . the FERC rule contains the queue position (section 1.6). It seems that where an interconnection customer pays for upgrades and subsequent interconnections benefit from the upgrades, the first customer (who originally paid for the upgrade) would get reimbursed and the "new" customer would pay for a portion of the costs. As noted [previously], KIUC seems to have removed the queue concept from the proposed tariff.

Order No. 23780, Exhibit, at 2.

6.

Responses to EPA's Comments

a.

KIUC's Response

On November 30, 2007, KIUC responded to the EPA's comments.⁴² KIUC notes that the Proposed Interconnection Tariff results from extensive discussion and collaboration, and represents the balancing of the different interests of the various stakeholders that may be involved in the distributed generation process. Moreover, while FERC's SGIP represents an ideal starting point, "modifications must be made to this document in order to provide appropriate standards and requirements that would accomplish the objectives of facilitating distributed generation while at the same time ensuring that it is cost-effective, economical and reliable and does not pose an undue harm or burden on KIUC, its system, its members/customers and the island of Kauai."⁴³ In essence, KIUC objects to the "one size fits all" approach suggested by the EPA.

⁴²See KIUC's letter, dated November 30, 2007.

⁴³KIUC's letter, dated November 30, 2007, at 2-3.

Instead, given the utility's status as a stand-alone, island system that is limited in size and personnel, KIUC counters that the EPA's observations and recommendations "should not be adopted for purposes of this proceeding, with the possible exception of the queuing process set forth in Section 1.6 of the FERC's [SGIP]."

KIUC responds with particularity to each of the EPA's observations, as follows:

1. With respect to the EPA's observations that the Proposed Interconnection Tariff eliminates or extends certain deadlines that govern the interconnection process:

. . . . KIUC's sensitivities to any addition, modification or loss of generation are much more pronounced due to its small customer base and the limited size and isolated nature of its system as compared to other electric utilities or cooperatives elsewhere in the nation. In other words, even the addition of a small distributed generation facility that may provide almost no impacts to a larger electric utility's system, may cause extreme fluctuations in KIUC's power and demand curve that must be considered, analyzed and taken into consideration before KIUC can determine whether the system can safely and reliably connect to KIUC's system, as well as to determine what modifications or other protections may be needed or appropriate in order to ensure safe and reliable operation. Needless to say, these considerations take time. Unfortunately, due to its limited size, KIUC also does not have the internal staffing available to conduct this analysis in an expedited manner as compared to other electric utilities or cooperatives on the mainland.

. . . .

For the reasons set forth above, KIUC believes that it is reasonable to expect that, all else being equal, KIUC's process should take longer than other electric utilities on the

"KIUC's letter, dated November 30, 2007, at 9.

mainland in many situations. In other words, due to the significant impacts that any distributed generation (or, in fact, any generation, addition or modification) could have on KIUC's system (due to its limited size and isolated nature), it is only prudent that additional consideration and analyses must be performed to determine the impacts on KIUC's small and isolated system and what measures may be needed to ensure that the addition/modification can safely and reliably connect to KIUC's system. In addition, due to its limited size and as mentioned above, KIUC also does not have the internal staffing available or the ability to access other resources as compared to electric utilities on the mainland. This results in KIUC's employees having to dedicate the resources needed to process interconnection requests while at the same time balancing their various other important and day-to-day pressing duties that may be in existence at that time. Alternatively, KIUC could retain outside consultants to assist in this analysis; however, this can be costly and the timing to perform will be dependent on the schedule of the outside consultant and the arrangement that can [be] entered into at that time.

As such, for the reasons set forth above, KIUC should not be subject to the same deadlines as contained within the FERC's [SGIP]. . . . Based on KIUC's unique circumstances described above and for purposes of establishing deadlines under a tariff that will apply to all interconnection requests, KIUC believes that the dates established in the proposed interconnection tariff are reasonable and should be approved, and that KIUC should not be subject to any more stringent or additional deadlines for the reasons set forth above.

KIUC's letter, dated November 30, 2007, at 4-6 (footnote and text therein omitted).

KIUC concludes by noting that "[e]ven if a deadline is not specifically set forth within the tariff, KIUC believes that any potential interconnection customer still has appropriate redress, in that any potential customer can at any time submit to

the Commission an informal or formal complaint against KIUC to the extent it feels KIUC is not acting timely or reasonably under the circumstances."⁴⁵

2. Upon reflection, KIUC acknowledges the benefit of having a queuing process in place for cost allocation purposes. As such, KIUC does not oppose the inclusion of the queuing language set forth in Section 1.6 of FERC's SGIP, which states:

Queue Position

The Transmission Provider shall assign a Queue Position based upon the date- and time-stamp of the Interconnection Request. The Queue Position of each Interconnection Request will be used to determine the cost responsibility for the Upgrades necessary to accommodate the interconnection. The Transmission Provider shall maintain a single queue per geographic region. At the Transmission Provider's option, Interconnection Requests may be studied serially or in clusters for the purpose of the system impact study.

Section 1.6, FERC's SGIP.

3. In response to the EPA's observations that certain other states have found that smaller systems place less of a burden on the system and hence the interconnection process can be expedited to completion, including the use of a field certification category:

. . . . KIUC does not believe that additional steps need to be added into the fast track process, and that the parameters set forth in the interconnection tariff are not intended to be an all-inclusive list of when a proposed project may qualify to be fast-tracked. In other words, regardless of whether the specific fast-track screens are passed, KIUC has agreed that it will "fast track" a project as long as KIUC can make a determination under the specific circumstances that the facility may nevertheless be interconnected consistent with safety, reliability

⁴⁵KIUC's letter, dated November 30, 2007, at 6 n.4.

and power quality standards. This is demonstrated by the modification KIUC proposed and the parties accepted to Section 2.2.3 of the proposed interconnection tariff (policies and procedures) .

In addition, with respect specifically to non-exporting facilities, KIUC believes that, at least for its unique circumstances as discussed above, the same type of analysis is required regardless of whether or not the co-generator is planning to export or not export power to KIUC's electric grid. This is because the interconnection of any energy generation unit will have some level of impact on KIUC's electric system regardless of whether the units are intended to export power or not. Even if the intended operation of a generation unit is not to export power, any generator operating in parallel with the utility's electric system will export power to the utility's grid. As such, even in this situation, KIUC must analyze these potential impacts to determine whether or not the co-generator can be interconnected to KIUC's system consistent with safety, reliability, and power quality standards to qualify for fast-tracking, or whether the additional studies or analyses need to be performed.

KIUC's letter, dated November 30, 2007, at 7-8.

4. Lastly, KIUC reiterates that the cost allocation provisions set forth in the Proposed Interconnection Tariff are consistent with Decision and Order No. 22248, as clarified by Order No. 22375.

b.

HREA's Response

On November 30, 2007, HREA also filed a response to the EPA's comments.⁴⁶ In its response, HREA concurs with the EPA's observations on the Proposed Interconnection Tariff. Thus,

⁴⁶See Response of HREA to Comments of the EPA; and Certificate of Service, filed on November 30, 2007.

HREA asserts that the commission should require that KIUC revise the Proposed Interconnection Tariff to: (1) include a timeline, with a sample GANTT chart, for each of the steps, from the submittal of a request for an interconnection application, to the approval of the Interconnection Agreement; (2) include a queuing section; and (3) make it clear that all efforts will be made to fast track all applications up to 2 MW. Moreover, HREA believes that the 2 MW size limitation as proposed by the Stipulating Parties is reasonable, given the size of KIUC's grid (currently peaking at about 80 MWs).

HREA also notes that the EPA's observations on HREA's Statement of Position are accurate. In addition, HREA expands on the arguments made in its Statement of Position by asserting that it makes sense now for the commission to recognize in a policy statement that the benefits of distributed generation accorded to the utility may equal or exceed the costs incurred by the utility to pay for certain interconnection facilities and system betterments. In this manner, HREA reasons, the "utility and the DG owner/customer [will] . . . avoid the costs associated with conducting detailed analyses of the costs and benefits for each proposed facility."⁴⁷

II.

Discussion

This Decision and Order addresses whether the Proposed Interconnection Tariff is just and reasonable and consistent in

⁴⁷HREA's Response, at 5.

principle with the guidelines and requirements set forth in Decision and Order No. 22248, as clarified by Order No. 22375, filed in Docket No. 03-0371.⁴⁸

A.

Proposed Interconnection Tariff

HRS § 269-16(a) states in relevant part:

Regulation of utility rates; ratemaking procedures. (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility or by two or more public utilities jointly shall be just and reasonable and shall be filed with the public utilities commission

HRS § 269-16(a). See also HRS §§ 269-16(b) (just and reasonable standard) and 269-16.2 (any rules, guidelines, or other standards of a public utility that interpret state laws governing non-utility generators shall be approved by the commission).

With respect to the interconnection process, Decision and Order No. 22248 provides, in summary:

The commission will take those actions that are necessary to promote the installation of distributed generation that is economically efficient and reliable. Those actions include, but are not limited to, the actions listed here and discussed further in this Decision and Order:

- (1) Establishing requirements to assure safety and reliability;
- (2) Establishing requirements for interconnecting distributed generation to the electric utility's distribution system;
- (3) Establishing technical requirements to ensure distribution safety;

⁴⁸See Order No. 23172, at 9 (identification of preliminary issue number 2).

(4) Establishing a policy that permits utility participation in the distributed generation market, under specified circumstances;

(5) Establishing the parameters for standardized interconnection agreements;

(6) Requiring the utilities to perform pre-interconnection studies for customers at reasonable cost to the customer;

(7) Establishing requirements and parameters that: (a) allow qualified third parties to perform the pre-interconnection studies, and require the utility to accept them under specific conditions; (b) allow third party verification of alternative solutions and technologies; (c) create safe-harbor exemption from the study requirements for smaller projects whose interconnection is unlikely to affect the distribution system; (d) pre-certify certain equipment that meets certain standards set by appropriate organizations such as the Underwriters Laboratory ("UL") so as to expedite installation and obviate separately conducted equipment studies;

(8) Requiring the utility to: (a) negotiate or require contracts that allow the utility to dispatch the customer's generation unit where dispatching the unit is economical, and (b) make payments to the customer-generator for the dispatch, reflecting costs avoided by the utility;

(9) Refraining from requiring distributed generators to carry a standardized amount and type of liability insurance and precluding the utility from requiring the same;

(10) Requiring that the utility-incurred costs that benefit the distributed generation project are borne by the distributed generation project and the charges for these utility-provided services are properly allocated;

(11) Requiring the interconnection customer to pay for all costs of interconnecting, including costs of system upgrades or network upgrades, with certain exceptions;

(12) Requiring each utility to establish unbundled rates that identify the costs associated with providing each service (i.e., generation, distribution, transmission and ancillary services) to determine standby rates; and

(13) Considering whether there is a benefit to deferring the assignment of any unrecovered costs until a certain percentage of load has been lost to distributed generation.

THE COMMISSION ORDERS:

1. The policy of the commission is to promote the development of a market structure that assures: (a) distributed generation is available at the lowest feasible cost; (b) distributed generation that is economical and reliable has an opportunity to come to fruition; and (c) distributed generation that is not cost effective does not enter the system. The commission will take those actions that are necessary to promote the installation of distributed generation that is economically efficient and reliable, including, but not limited to, the matters specified in Section II.A of this Decision and Order.

4. The commission requires that each utility establish reliability and safety requirements, by proposed tariff for approval by the commission, for distributed generation that is connected to the electric utility's distribution system.

5. The commission requires that each utility establish a non-discriminatory interconnection policy, by proposed tariff for approval by the commission, that entitles distributed generation to interconnect when it can be done safely, reliably, and economically. The commission also requires the utilities to develop a standardized interconnection agreement, by proposed tariff for approval by the commission, to streamline the distributed generation application review process and eliminate long lead times that may lead to cancellation of a beneficial project, as more particularly described above.

6. To ensure that only economic distributed generation projects are developed, and that there is not cost shifting from the customer-generator to other customers or to utility shareholders, utility-incurred costs shall be allocated properly so that those costs that benefit the distributed generation project are borne by the project. This principle is applied to interconnection costs, standby and backup service costs, and unrecovered utility costs, as described above.

11. To the extent any existing tariff or other regulatory provisions are applicable to any of the additional tariffs required to be developed by the commission in this Decision and Order, the utility shall be allowed to propose amendments to the same, as appropriate. The utility shall also be permitted to propose to the commission for its consideration other means that may be more efficient and appropriate, in lieu of a tariff, by which to accomplish the principles and policies established by the commission in this Decision and Order.

Decision and Order No. 22248, Section II.A, at 12-14, and Ordering Paragraphs Nos. 1, 4, 5, 6, and 11, at 46-48 (emphasis added).

The Stipulating Parties, in reaching agreement on the Proposed Interconnection Tariff, represent:

These Policies and Procedures and its various attachments have been prepared by KIUC as a result of and pursuant to the Commission's policy and requirements . . . set forth within Decision and Order No. 22248. Specifically, these Policies and Procedures set forth the policies, procedures and requirements that must be followed by both KIUC and distributed generation units connected or that propose to be connected in parallel with KIUC's electric system. In establishing these Policies and Procedures, KIUC decided to limit the application of these Policies and Procedures to only distributed generating facilities less than or equal to 20 megawatts ("MW") in size.

In doing so, KIUC utilized as its starting point in preparing these Policies and Procedures the standard procedures issued by [FERC] on May 12, 2005, as amended, to govern the interconnection of generators no larger than 20 MW.

Policies and Procedures, Preamble, at 3 (emphasis added).

In its response to PUC-IR-101 (KIUC, Interconnection), KIUC explains its reasons for limiting its interconnection tariff to distributed generators no more than 20 MW in size.⁴⁹

⁴⁹At the outset, KIUC discusses the distinction between interconnecting with the utility's *distribution* system vs. interconnecting with the utility's *transmission* system. KIUC then explains that: (1) based on the electrical limits associated with its distribution system, a distributed generation unit interconnecting with KIUC's distribution system will be limited to approximately 10 MW; and (2) the 20 MW limit set forth in the interconnection tariff will not impact distributed generation units interconnecting with KIUC's *distribution* system, i.e., distributed generation units limited to approximately 10 MW, while at the same time, the interconnection tariff will enable KIUC to provide standard interconnection criteria to renewable generation developers negotiating with KIUC to interconnect with KIUC's *transmission* system, i.e., units larger than 10 MW and up to 20 MW.

Moreover:

Should the Commission question how KIUC will treat DG units larger than 20 MW, KIUC has not fully evaluated this matter. However, KIUC's current intention is to utilize, to the extent possible, its proposed Interconnection Policies and Procedures, as filed, to govern all applicable DG interconnection projects, which may include DG larger than 20 MW. Should KIUC believe that these proposed Interconnection Policies and Procedures, as filed, are not adequate to evaluate a DG larger than 20 MW, KIUC may utilize FERC's Large Generator Interconnection Policies and Procedures/Agreement. However, at this time, KIUC has not evaluated the applicability of FERC's Large Generator Interconnection Policies and Procedures/Agreement to KIUC's system.

KIUC's response to PUC-IR-101 (KIUC, Interconnection).

The commission's review confirms the Stipulating Parties' representation that the Proposed Interconnection Tariff is based on FERC's SGIP. In the commission's view, FERC's SGIP represents a credible starting point for KIUC to develop its interconnection tariff, tailored to meet the requirements of Decision and Order No. 22248, as clarified by Order No. 22375, and its needs as an island utility.

The commission finds that the Proposed Interconnection Tariff, in general, appears to substantially comply with the applicable guidelines and requirements set forth in Decision and Order No. 22248, as clarified by Order No. 22375.⁵⁰

⁵⁰KIUC notes that its compliance with the specific requirements of Decision and Order No. 22248 is described in its matrix chart, "KIUC Distributed Generation Docket, Tariff Requirements Imposed by Decision and Order No. 22248." See KIUC's supplemental response to PUC-IR-102 (KIUC, Interconnection), Supplemental Attachment PUC-IR-102; see also KIUC's responses to PUC-IR-103 (KIUC, Interconnection) through PUC-IR-107 (KIUC, Interconnection); and Policies and Procedures, Preamble, at 1-3 (the Policies and Procedures and various attachments were prepared by KIUC as a result of and pursuant to the commission's policy and requirements set forth in Decision and Order No. 22248).

With respect to its matrix chart, consisting of Supplemental Attachment PUC-IR-102, KIUC explains:

Because of the varying possible types of generator technologies, modes of operations, capacities, and availability issues that may be involved with a specific interconnection, each of which will pose its own set of technical, reliability and safety concerns that must be addressed under the circumstances, KIUC decided that it was not practical to create extensive specific requirements within a standard set of policies or a standard interconnection agreement that could apply to each situation. To address this, KIUC attempted to address each of the requirements imposed by Decision and Order No. 22248 by including in its proposed Interconnection Policies and Procedures and Interconnection Agreement only those specific requirements or standards that would be applicable to all generator interconnection projects. The additional

The Proposed Interconnection Tariff includes, for example, a Fast Track Process for facilities no larger than 2 MWs, including a 10 Kw Inverter Process for certified-inverter-based facilities no larger than 10 kW. The commission also finds reasonable KIUC's rationale for limiting the scope of the Proposed Interconnection Tariff, at this time, to facilities no larger than 20 MWs, which is consistent with the 20 MW cap established by FERC in its SGIP.

That said, the commission finds that the Proposed Interconnection Tariff should be revised in certain areas:

First, the commission specifically notes that Decision and Order No. 22248 "requires that each utility require the interconnecting customer to pay for all costs of interconnecting, including the costs of system upgrades or network upgrades; however, if the interconnecting customer or generator can show that there are benefits to the utility system for such upgrades, it may apply to the utility for a credit reflecting these benefits, subject to commission approval."⁵¹

'non-standard' requirements that would apply to an interconnection project based on its size, technology, mode of operation, availability and other factors would be set forth within or as attachments to the specific interconnection agreement.

KIUC's response to PUC-IR-102 (KIUC, Interconnection) (emphasis added).

⁵¹Docket No. 03-0371, Decision and Order No. 22248, Section II.H(1), at 41; see also id., Section II.A(10) and (11), at 14; and Ordering ¶ 6, at 47. HREA requests that the commission reconsider its ruling in this regard, reasoning that the commission should adopt a policy now, by this Decision and Order, which recognizes that distributed generation per se provides system benefits to the utility's system. The commission declines to adopt the contrary position advocated by HREA herein.

While the cost allocation provisions set forth in Attachment 9, Interconnection Agreement, of the Proposed Interconnection Tariff, provides that the costs of the interconnection facilities "may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and [KIUC,]" it does not include a provision stating that the customer's request for a credit for system benefits is subject to the commission's approval.

Second, the EPA suggested inclusion of a queuing process for cost allocation purposes, which KIUC does not oppose. Such provision should be included in KIUC's interconnection tariff.

Third, as noted by the EPA, the Proposed Interconnection Tariff eliminates or expands certain time limits governing the completion of the interconnection process, and instead, replaces the time limits with language that effectively provides the utility with the discretion to extend a specific deadline, upon the customer's consent.⁵² While the commission recognizes that KIUC is a stand-alone electric utility with certain resource constraints, Decision and Order No. 22248

Instead, the commission, by this Decision and Order, reaffirms its pertinent ruling in Decision and Order No. 22248. Moreover, the commission notes that HREA's request for reconsideration of Decision and Order No. 22248 should have been timely filed in Docket No. 03-0371. (Only the HECO Companies timely moved for reconsideration of Docket No. 03-0371 in Docket No. 03-0371.)

⁵²The specific phrase used in various provisions of the Proposed Interconnection Tariff states in relevant part that the specified deadline "may be extended by the Interconnection Customer upon request by KIUC, which extension shall not be unreasonably withheld," or words to that effect.

requires that the standardized interconnection agreement include time lines for completion, in order to streamline the distributed generation application review process and eliminate long lead times that may lead to the cancellation of a beneficial project.⁵³

KIUC, in its response to the EPA's pertinent observations, does note that even if a specific deadline is not established in all instances, the customer has the option of submitting to the commission an informal or formal complaint at any time it feels that the utility is not acting timely or reasonably under the circumstances.

On balance, the commission finds that certain revisions to the Proposed Interconnection Tariff are necessary and consistent with the commission's policy of encouraging the efficient development and deployment of distributed generation resources within the State. Accordingly, the commission will approve the Proposed Interconnection Tariff, subject to the following revisions:⁵⁴

1. Throughout the Policies and Procedures section and corresponding attachments, whenever a specified time limit is qualified by the "may be extended by the Interconnection Customer upon request by KIUC, which extension shall not be unreasonably withheld" phrase, or words to that effect, KIUC shall include

⁵³See Docket No. 03-0371, Decision and Order No. 22248, at 36 and 46-47.

⁵⁴In In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Docket No. 02-0051, Decision and Order No. 19773, filed on November 15, 2002, the commission conditionally approved the HECO Companies' initial interconnection tariff, subject to the incorporation of the revisions suggested by the commission.

language making it clear that the customer may, in lieu of agreeing to KIUC's extension request, avail itself of the dispute resolution process set forth in the Policies and Procedures, Section 4, Disputes, in particular, subsection 4.1.3.⁵⁵

2. For the Policies and Procedures, Attachment 1, Glossary of Terms, and Attachment 9, Interconnection Agreement, Exhibit 1, Glossary of Terms, amend the definition of "Distribution Upgrades" by changing "interstate" to "intrastate."

3. For Attachment 9, Interconnection Agreement, Article 4, Cost Responsibility for Interconnection Facilities and Distribution Upgrades, include: (A) a provision stating that the customer's request for a credit for system benefits is subject to the commission's approval; and (B) the queuing language suggested by the EPA and affirmatively agreed-upon by KIUC, tailored to the Proposed Interconnection Tariff.

⁵⁵In this regard, in a similar vein, subsection 3.4.1 of the Policies and Procedures states in relevant part:

. . . . In the event KIUC elects to retain a consultant to perform and prepare the system impact study, KIUC shall notify the Interconnection Customer of the consultant that KIUC plans to retain. The Interconnection Customer shall then have 5 Business Days from the receipt of such notice to object to the hiring of the proposed consultant. If so objected, the Parties shall then have 15 Business Days to either reach an agreement on the proposed consultant or on another consultant to perform said study. If no agreement can be reached within that timeframe, then the dispute resolution provisions set forth in Section 4.1 below shall apply.

Policies and Procedures, subsection 3.4.1, at 12-13 (emphasis added). Moreover, as previously noted, subsection 4.1.5 of the Policies and Procedures provides that KIUC and the interconnecting customer "may exercise whatever rights and remedies it may have in equity or law consistent with the terms of these Policies and Procedures."

4. For Attachment 9, Interconnection Agreement, Article 10, Disputes, incorporate the dispute resolution provisions set forth in the Policies and Procedures, Section 4, Disputes, for consistency purposes.⁵⁶

5. For the Policies and Procedures, Section 4, Disputes, and Attachment 9, Interconnection Agreement, Article 10, Disputes, include a new subsection stating that the customer also has the option of availing itself of formal relief with the commission, pursuant to the commission's applicable Rules of Practice and Procedure, HAR, chapter 6-61 (and as acknowledged by KIUC).

Lastly, the commission reminds KIUC that consistent with Decision and Order No. 22248, it must train its employees in distributed generation matters as appropriate, including training on new technologies relating to integration equipment.⁵⁷ In addition, consistent with Decision and Order No. 22248 and Section 4.9 of the Policies and Procedures, KIUC shall "establish a centralized point of contact for distributed generation applications."⁵⁸

⁵⁶Attachment 9, Interconnection Agreement, Article 10, Disputes, appears to inadvertently "reserve" the dispute resolution provisions to the specific contracting parties' determination, and thus, is inconsistent with the dispute resolution provisions set forth in the Policies and Procedures, Section 4, Disputes.

⁵⁷See Decision and Order No. 22248, at 37 and 39.

⁵⁸Decision and Order No. 22248, at 39.

B.

Conclusion

The Proposed Interconnection Tariff, taken as a whole, appears reasonable, subject to the inclusion of the revisions mandated by the commission in Section III.A, above. KIUC shall file its interconnection tariff for distributed generation facilities, with the commission-mandated revisions, to implement the interconnection of distributed generating facilities operating in parallel with KIUC's system. In sum, the commission approves the Proposed Interconnection Tariff, as modified herein, consistent with the terms of this Decision and Order.

III.

Orders

THE COMMISSION ORDERS:

1. The Parties' voluntary and intentional waiver of hearing on the interconnection tariff issue is approved.

2. The interconnection tariff proposed by the Stipulating Parties is approved, as modified in Section III.A of this Decision and Order.

3. By June 18, 2008, KIUC shall file its interconnection tariff for distributed generation facilities, with the commission-mandated revisions, to implement the interconnection of distributed generating facilities operating in parallel with KIUC's system. KIUC's transmittal letter shall describe with particularity the revisions made to the Proposed Interconnection Tariff. Upon review, further commission action

will follow, including instructions regarding the applicable issued and effective dates of KIUC's interconnection tariff.

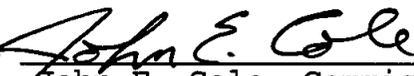
4. The failure to comply with Ordering Paragraph No. 3, above, may constitute cause to void this Decision and Order, and may result in further regulatory action as authorized by State law.

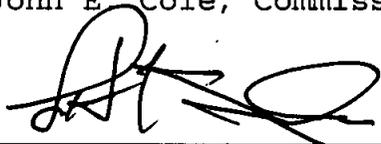
5. The commission reserves the right to review anew KIUC's interconnection tariff for distributed generation facilities at any time, consistent with the public interest.

DONE at Honolulu, Hawaii MAY 22 2008 .

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:


Michael Azama
Commission Counsel

2006-0498.laa

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 24238 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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