

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding)
to Investigate Distributed)
Energy Resource Policies.)
_____)

DOCKET NO. 2014-0192

ORDER NO. **34458**

CLARIFYING ORDER NO. 34205

2017 MAR 17 PM 1:09
PUBLIC UTILITIES
COMMISSION

FILED

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OF THE STATE OF HAWAII

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PUBLIC UTILITIES COMMISSION) Docket No. 2014-0192
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Instituting a Proceeding) Order No. **34458**
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CLARIFYING ORDER NO. 34205

By this Order,¹ the Public Utilities Commission
("commission") clarifies Order No. 34205, filed on

¹The Parties to this proceeding are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO"), KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY (the "Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

Additionally, the commission has granted intervenor status to the DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM ("DBEDT"), HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"), RENEWABLE ENERGY ACTION COALITION OF HAWAII ("REACH"), HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"), HAWAII PV COALITION ("HPVC"), BLUE PLANET FOUNDATION ("Blue Planet"), THE ALLIANCE FOR SOLAR CHOICE ("TASC"), SUNPOWER CORPORATION ("SunPower"), LIFE OF THE LAND ("LOL"), RON HOOSON ("Mr. Hooson"), DISTRIBUTED ENERGY RESOURCE COUNCIL OF HAWAII ("DERC"), APOLLO ENERGY CORPORATION ("Apollo"), PUNA PONO ALLIANCE ("Puna Pono"), ULUPONO INITIATIVE LLC ("Ulupono"), and the ENERGY FREEDOM COALITION OF AMERICA ("EFCA").

December 9, 2016,² in response to apparent confusion regarding the date from which submitted Net Energy Metering ("NEM") applications may be cancelled and the associated capacity transferred to the Customer-Grid Supply ("CGS") program.³ Specifically, the commission clarifies that Order No. 34205 applies to the capacity associated with submitted, but subsequently cancelled or withdrawn, NEM applications following the closure of the NEM program in October 2015, and may be transferred from the NEM program to the CGS program.⁴

I.

RELEVANT PROCEDURAL HISTORY

On December 9, 2016, the commission issued Order No. 34205, in which it denied the Solar Parties'⁵

²Order No. 34205, "Denying Hawaii PV Coalition's, Hawaii Solar Energy Association's, SunPower Corporation's, and The Alliance for Solar Choice's Motion to Adjust the Customer Grid Supply Tariff Cap," filed December 9, 2016 ("Order No. 34205").

³See Order No. 34205 at 18-19.

⁴The term "CGS program" as used herein is meant to reference the current, interim CGS tariff and a successor CGS tariff, if any, following October 21, 2017 (which is the scheduled expiration date of the current CGS tariff).

⁵The "Solar Parties" refers collectively in this Order to HPVC, HSEA, SunPower, and TASC.

motion to adjust the CGS tariff cap. However, in doing so, the commission stated:

While the commission denies the Solar Parties' Motion, the commission instructs the HECO Companies to transfer grid capacity from the NEM program queue, as suggested by the HECO Companies. The Solar Parties and the HECO Companies shall work together to determine which customers who had submitted NEM applications prior to the closure of the NEM program have subsequently withdrawn their applications, or are no longer interested in pursuing installation of a renewable energy system under the NEM program. This may result in the opening of available grid capacity which can then be transferred to the CGS tariff cap.⁶

On February 7, 2017, the Solar Parties submitted a letter to the commission requesting a status conference to discuss a dispute between the Solar Parties and the HECO Companies regarding application of Order No. 34205.⁷ According to the Solar Parties:

[T]he parties are at an impasse regarding the interpretation of the date from which to count the capacity of "customers who had submitted NEM applications prior to the closure of the NEM program [but] have subsequently withdrawn their applications, or are no longer interested in pursuing installation of a renewable energy system under the NEM program." Based on the plain language of the Commission's instruction cited above and footnote 49 in the Order, the Solar Parties

⁶Order No. 34205 at 18-19 (internal citations omitted).

⁷"Joint Letter From: C. Yost, I. Moriwake, S. Wong, and T. Lindl To: Commission Re: Docket No. 2014-0192: Request for Status Conference," filed February 7, 2017 ("Joint Letter").

understand the Order to apply to all customers who subsequently withdrew their NEM applications following the closure of the NEM program in October 2015. The HECO Companies disagree, and believe that they are only obligated to consider withdrawals from the NEM program after December 9, 2016, the date of the Order's issuance.⁸

On February 15, 2017, the commission issued a letter to the Parties informing them that the commission would be holding a telephonic status conference to discuss the issue raised in the Solar Parties' Joint Letter.⁹ The commission set the status conference for February 21, 2017, at 11:00 a.m.

On February 17, 2017, in anticipation of the status conference, the HECO Companies filed an "aging report" for HECO, HELCO, and MECO that showed the amount of NEM capacity that could be transferred to CGS under the Solar Parties' October 2015 scenario and the HECO Companies' December 2016 scenario.¹⁰

⁸Joint Letter at 1-2.

⁹"Letter From: Commission To: Service List: Re: Notice of Status Conference on February 21, 2017 - Docket No. 2014-0192, In re: Public Utilities Commission, Instituting a Proceeding to Investigate Distributed Energy Resource Policies," filed February 15, 2017.

¹⁰"Letter From: K. Shinsato To: Commission Re: Docket No. 2014-0192; Instituting a Proceeding to Investigate Distributed Energy Resource Policies; Status Conference Scheduled for February 21, 2017," filed February 17, 2017 ("NEM Aging Report").

On February 21, 2017, the commission hosted the status conference as scheduled.

II.

DISCUSSION

A.

Order No. 34205 Applies From The Closure of the NEM Program

Upon review, Order No. 34205 clearly states that "[t]he Solar Parties and the HECO Companies shall work together to determine which customers who had submitted NEM applications prior to the closure of the NEM program have subsequently withdrawn their applications, or are no longer interested in pursuing installation of a renewable energy system under the NEM program."¹¹ The plain language of Order No. 34205 clearly states that the capacity associated with NEM applications that were submitted prior to the closure of the NEM program that are subsequently withdrawn or cancelled may be transferred from the NEM program to the CGS program. Order No. 34205 was not intended to operate prospectively; i.e., only apply to NEM applications that are withdrawn or cancelled after the filing date of Order No. 34205.

Accordingly, the commission concludes that the Solar Parties' interpretation of Order No. 34205 is correct and

¹¹Order No. 34205 at 18-19 (emphasis added).

that Order No. 34205 applies to the capacity of all NEM applications that have been withdrawn or cancelled since the closure of the NEM program in October 2015.

B.

The Transfer of Capacity from the NEM Program to the CGS Program Will End With the Scheduled End of the Current CGS Tariff

While the commission is affirming the Solar Parties' interpretation of Order No. 34205 regarding the applicable date from which to calculate availability of cancelled or withdrawn capacity from the NEM program, the commission is also mindful of the effect this transfer may have on the progress that is currently underway in Phase 2 of this proceeding. Although the addition of capacity to the CGS program may have the inadvertent effect of reducing the relative attractiveness of the CSS tariff, the commission emphasizes that the CGS program is an *interim*, short-term option that must make way for new, more granular, tariff offerings that are better aligned with the commission's vision of providing accessible distributed energy resource ("DER") options and fair costs for all of Hawaii's ratepayers.

Accordingly, the commission clarifies that the transfer of cancelled or withdrawn capacity from the NEM program to the CGS program, if any, will not be permitted after the scheduled

expiration date of the current CGS tariff; i.e., October 21, 2017.¹² After this date, no more cancelled or withdrawn capacity from the NEM program, even if available, shall be transferred to the CGS program.

The commission is aware of the reported delays associated with interconnecting some CGS systems to the HECO Companies' electric grids, which may hinder CGS applicants from enjoying the benefits of the CGS program. To this end, the commission clarifies that applicants who have submitted their applications for the CGS program on or before October 21, 2017, but have not yet been able to interconnect their PV system to the electric grid, shall still be considered part of the CGS program.

C.

Commission Guidance Regarding the Transfer of Capacity
From the NEM Program to the CGS Program

In addressing this issue raised by the Parties, the commission makes several observations and provides additional guidance regarding the CGS program and future DER options that

¹²See Decision and Order No. 33258, filed October 12, 2015, at 139; see also, "The Hawaiian Electric Companies' Self Supply, Grid Supply, and Rule 14H Tariffs," filed October 19, 2015, ("HECO Companies' CSS, CGS, and Rule 14H Filing") Book 1, Attachment 3 (indicating an effective date of October 21, 2015, and stating that the CGS Energy Credit Rates shall be effective for a period of two years).

will be developed in Phase 2 of this proceeding. The commission provides this additional guidance to ensure that the transfer of capacity from the NEM program to the CGS program is aligned with the commission's Inclinations and prior Orders regarding DER in Hawaii. As noted above, the CGS program is an interim, short-term option designed to promote and enable customer choice and the adoption and integration of DER onto the electric grid while the Parties comprehensively consider revisions to DER programs during Phase 2.

In this sense, the CGS program represents one step along an evolving continuum of DER options designed to promote the safe, fair, and cost-effective adoption of DER in Hawaii. As with the NEM program, the CGS program must make way for more sophisticated DER tariff options that advance grid-supportive, cost-effective DER and the State's energy policy goals.

Thus, while the commission is allowing the CGS program to receive additional, unused capacity from the NEM program, the commission observes that continued dependence on uncontrolled export models is not aligned with the commission's long-term vision for DER in Hawaii. Technology and market options are continuing to evolve, and stakeholders must be focused on programs that will provide long-term, sustainable, and equitable renewable energy solutions for the State.

The commission recognizes the inherent challenges involved in moving towards a long-term, grid-supportive DER market structure and intends for the limited continuation of the CGS program to provide support and continuity as the State navigates this transition period. However, the commission emphasizes that uncontrolled export programs will play a decreasing role in the developing energy future of Hawaii.

The commission observes that, to date, the Solar Parties have made significant strides in evolving their business models and have suggested potential future tariff options to move the market toward a long-term DER market structure. The commission stresses the need to build on such momentum and urges all Parties to continue to collaborate on developing innovative solutions that will advance Hawaii toward its energy policy goals and enable the continued deployment of grid-supportive and cost-effective DER.

III.

ORDERS

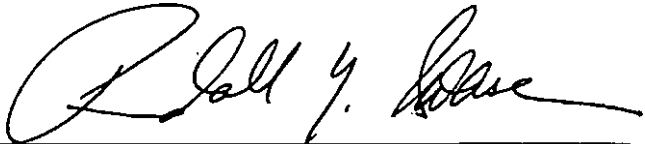
THE COMMISSION ORDERS:

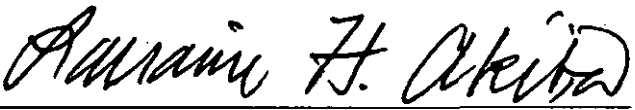
1. The commission clarifies Order No. 34205 as set forth above.
2. The transfer of capacity from the NEM program to the CGS program, to the extent capacity is created by cancelled or withdrawn submitted NEM applications, will be permitted up to and

including October 21, 2017, after which no capacity may be transferred from the NEM program to the CGS program.

DONE at Honolulu, Hawaii MAR 17 2017


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Randall Y. Iwase, Chair

By 
Lorraine H. Akiba, Commissioner

By 
Thomas C. Gorak, Commissioner

APPROVED AS TO FORM:


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Commission Counsel

2014-0192.ljk

CERTIFICATE OF SERVICE

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

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