

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
HAWAII ELECTRIC LIGHT COMPANY,)
INC., MAUI ELECTRIC COMPANY,)
LIMITED, and NEXTERA ENERGY, INC.)
For Approval of the Proposed Change)
Of Control and Related Matters.)

DOCKET NO. 2015-0022

ORDER NO. 33136

GRANTING LIFE OF THE LAND'S MOTION FOR MEDIA ACCESS
AND ADOPTING, WITH MODIFICATIONS, THE PROPOSED ORDERS AND
GUIDELINES FOR MEDIA ACCESS AS PROPOSED BY THE CONSUMER ADVOCATE

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PUBLIC UTILITIES
COMMISSION
FILED

I.

Background

A.

Life of the Land's Motion

On August 20, 2015, LOL filed its Motion for Access. LOL specifically requests permission for 'Olelo Community Television ("Olelo") to film the commission's evidentiary proceedings.³ LOL states that the commission has allowed Olelo to film commission evidentiary hearings in the past, and that Olelo has approached LOL about filming this docket's evidentiary proceeding.⁴ LOL states that it has emailed the other Parties⁵ concerning this request and that some Parties supported it, while others did not provide a response.⁶ LOL states that it did

³LOL Motion for Media Access at 1.

⁴LOL Motion for Media Access at 1.

⁵The parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., MAUI ELECTRIC COMPANY, LIMITED (collectively, "Hawaiian Electric"), NEXTERA ENERGY, INC. ("NextEra") and 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 § 269-51 and Hawaii Administrative Rules § 6-6-62(a). The commission has also permitted twenty-nine additional entities to intervene in this proceeding. Unless otherwise specified, "Parties" refers collectively to all of these entities.

⁶LOL Motion for Media Access at 1.

not receive any opposition to its Motion for Media Access from any Party.⁷

B.

Intervening Parties' Statements of Position

On August 27, 2015, a number of Parties, including the Sierra Club; the Department of Business, Economic Development, and Tourism; Friends of Lanai; Hawaii PV Coalition; Hawaii Renewable Energy Alliance; Hawaii Solar Energy Association; Hina Power Corp.; the International Brotherhood of Electrical Workers Local Union 1260; Ka Lei Maile Alii Hawaiian Civic Club; LOL;⁸ and The Alliance for Solar Choice (collectively, the "Joint Parties"), filed a Joint Statement in support of LOL's Motion for Media Access.⁹

Also on August 27, 2015, Tawhiri Power LLC filed a Response in which it states that it is not taking a position on LOL's Motion for Media Access.¹⁰

⁷LOL Motion for Media Access at 1.

⁸The commission notes that LOL participated as one of the Joint Parties in filing a statement in support of its own motion.

⁹"Joint Statement in Support of Life of the Land's Motion for Media Access; and Certificate of Service," filed August 27, 2015 ("Joint Statement").

¹⁰"Tawhiri Power LLC's Response to Life of the Land's Motion for Media Access; and Certificate of Service," filed August 27, 2015.

On August 28, 2015, Hawaiian Electric and NextEra (collectively, "Applicants") filed a statement of no opposition to LOL's Motion for Media Access.¹¹

Also on August 28, 2015, the County of Maui filed a statement in support of LOL's Motion for Media Access.¹²

On September 3, 2015, Hawaii Island Energy Cooperative filed a statement of no position to LOL's Motion for Media Access.¹³

C.

The Consumer Advocate's Response

On August 28, 2015, the Consumer Advocate filed its Response. The Consumer Advocate does not object to LOL's request for media access, but recommends that the commission establish guidelines governing media access.¹⁴ The Consumer Advocate

¹¹"Applicants' Statement of No Opposition to Life of the Land's Motion for Media Access; and Certificate of Service," filed August 28, 2015.

¹²"County of Maui's Statement of Support of Life of the Land's Motion for Media Access; and Certificate of Service," filed August 28, 2015 ("County of Maui SOP").

¹³"Intervenor Hawai'i Island Energy Cooperative's Statement of No Position as to Life of the Land's Motion for Media Access, Filed on August 20, 2015," filed September 3, 2015.

¹⁴CA Response at 1.

attached a set of proposed guidelines to its Response as "Attachment A."¹⁵

II.

Findings and Conclusions

1. Based on the above, the commission finds and concludes as follows:

2. LOL's Motion for Media Access appears to be for the purpose of allowing the commission's evidentiary hearing to be streamed to Oahu and Neighbor Island communities.¹⁶

3. The commission finds that this is a reasonable request, given the potentially significant and long-term effects this docket may have on the State of Hawaii. Additionally, the commission notes that at least one Neighboring Island community, the County of Maui, has stated that statewide media access will complement the commission's scheduled public listening sessions by further engaging the Neighbor Island residents in this proceeding.¹⁷

4. The commission also notes that it has permitted evidentiary hearings to be recorded by the media on prior

¹⁵CA Response at Attachment A.

¹⁶LOL Motion for Media Access at 1.

¹⁷County of Maui SOP at 1.

occasions, and that no Party to this proceeding has objected to LOL's Motion for Media Access.

5. Hence, the commission is adopting orders and guidelines applicable to all media access, not just to LOL's specific request. That being said, media access should be not permitted in a way that will disrupt the proceedings or unfairly prejudice any of the Parties during the evidentiary hearing.

6. The commission finds that the Consumer Advocate's request for the commission to establish orders and guidelines governing media access to the evidentiary hearing is reasonable, with certain modifications, as discussed below.

7. Furthermore, the commission finds that the proposed orders and guidelines for media access submitted by the Consumer Advocate generally appear reasonable and are intended to accommodate media access to the evidentiary hearing without disrupting the proceedings or unfairly prejudicing any of the Parties.

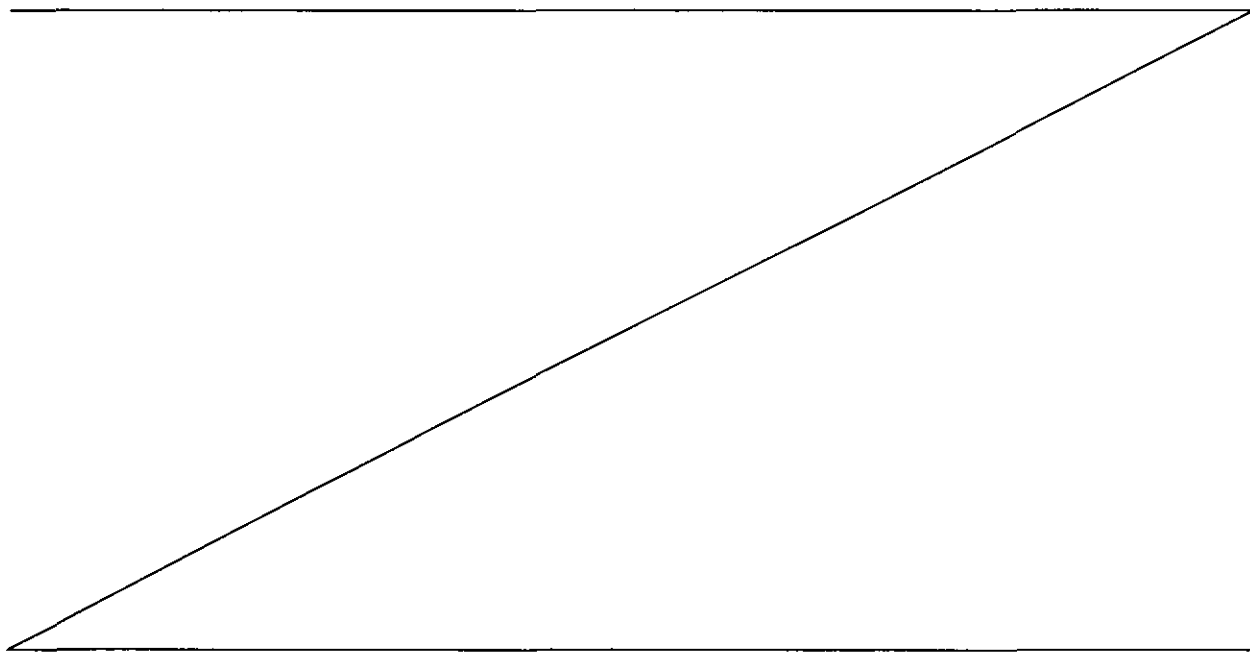
8. However, the commission declines, at this time, to impose the following limitations, which appear in Section IV, "Equipment and Personnel," of the Consumer Advocate's proposed orders and guidelines:

1. No more than two (2) television cameras and related audio equipment which do not produce distracting sound or light are permitted.

2. One still photographer, with not more than two cameras and four lenses, which does not produce distracting sound or light are permitted.

The commission intends to grant all reasonable requests for media access, and will address each request for media access based on the orders and guidelines adopted here as applied to the facts contained in each request. All requests for media access to the evidentiary hearings must be filed with the commission no later than November 16, 2015. The commission will issue an order(s) thereafter addressing the request(s) for media access.

9. Accordingly, the commission grants LOL's Motion for Media Access and adopts the Consumer Advocate's proposed orders and guidelines for media access as modified by this Order. Media access to the evidentiary hearing shall be governed by the orders and guidelines as set forth in Attachment A to this Order.



IV.

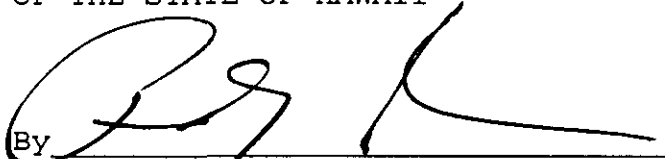
Orders


THE COMMISSION ORDERS:

1. LOL's Motion for Media Access is granted.
2. Media access to this docket's evidentiary hearing will be governed by the orders and guidelines set forth in the Attachment to this Order.

DONE at Honolulu, Hawaii SEP 17 2015.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Randall Y. Iwase, Chair

By 
Michael E. Champley, Commissioner

By 
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:


Mark Kaetsu
Commission Counsel

2015-0022.ijk

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ATTACHMENT

I. DEFINITIONS.

The following definitions apply to these Guidelines and to any and all consent forms and orders which refer or are applicable to these Guidelines.

1. MEDIA COVERAGE Includes any visual or audio coverage of Commission proceedings by any entity or media agency or such coverage of the conduct or comment of any individual in the hearing room during, prior to, and/or following Commission proceedings.
2. VISUAL COVERAGE includes coverage by equipment which has the capacity to reproduce or telecast an image, and also includes still and moving picture photographic equipment and video equipment.
3. AUDIO COVERAGE includes coverage by equipment which has the capacity to reproduce or broadcast sounds, and includes tape, cassette, digital storage or other sound recorders, and radio and video equipment.
4. MEDIA or MEDIA AGENCY means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service magazine, trade paper, in-house publication, professional journal, internet or web resource, or other information reporting or information gathering group or agency.
5. COMMISSION means the State of Hawaii Public Utilities Commission.

Whether or not consent of the parties or witnesses is obtained, the Commission may, in its discretion grant, deny, limit, or terminate media coverage. In exercising such discretion, the Commission shall consider all relevant factors, including, but not limited to, those listed in these guidelines.

It is ORDERED that no witness or party shall give consent to media coverage in exchange for payment or other consideration of any kind of character, either directly or indirectly.

It is further ORDERED that no media agency, organization, or individual shall pay or offer to pay any consideration in exchange for such consent.

II. MEDIA COVERAGE WITHOUT CONSENT.

If media coverage is sought without consent of the parties or witnesses, the decision to allow such coverage is discretionary with the Commission and any such decision will be made on a case-by-case basis. In determining an application for coverage, the Commission shall consider all relevant factors, including but not limited to:

1. type and extent of coverage involved;
2. whether the coverage would cause unfair harm to any participants;
3. whether the coverage would interfere with the fair administration of justice,

the advancement of a fair administrative proceeding, or the rights of the parties;

4. whether the coverage would interfere with any Commission activity;
5. the objections of any of the parties, prospective witnesses, victims, or other participants in the proceedings of which coverage is sought; and
6. the physical structure of the hearing room and the likelihood that any equipment required to conduct coverage of proceedings can be installed, operated and moved without disturbance to the proceedings.

The existence of any one or more of the said considerations shall not necessarily result in prohibition of media coverage, but the Commission shall consider all relevant factors and give such weight to such factors as the Commission deems necessary and proper.

III. PROHIBITED MEDIA COVERAGE.

It is ORDERED that media coverage of proceedings involving confidential matters be closed to the public pursuant to Protective Order No. 32726.

It is further ORDERED that audio coverage and close-up video coverage of conferences between and attorney and client, witness or aide, between attorney and the Commission is PROHIBITED.

IV. EQUIPMENT AND PERSONNEL.

The Commission may require media personnel to demonstrate that proposed equipment complies with these Guidelines. The Commission may specify the placement of media personnel and equipment to permit reasonable coverage without disruption to the proceedings.

Unless the Commission in its discretion and for good cause orders otherwise, it is ORDERED that the following guidelines apply:

1. Equipment shall not produce distracting sound or light. Signal lights or devices which show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden lighting shall not be used.
2. Existing hearing room sound and lighting systems shall be used without modification. Any order granting permission to modify existing systems is deemed to require that any such modifications for sound and lighting systems be installed, maintained, and removed without public expense.
3. Microphones and wiring shall be unobtrusively located in places approved by the Commission and shall be operated by one person.
4. Operators shall not move equipment or enter or leave the hearing room while the Commission is in session, or otherwise cause a distraction.

5. All equipment shall be in place in advance of the proceeding. Operators shall assume fixed positions within the designated areas and shall not move about in any way as to attract attention through further movement.
6. Still photographers shall not move about in order to photograph Commission proceedings.
7. Identifying marks, call letters, words and symbols shall be concealed on all equipment. Media personnel shall not display any identifying insignia on their clothing.

V. DELAY OF PROCEEDING.

It is ORDERED that no proceeding or session shall be delayed or continued for the sole purpose of allowing media coverage, whether due to installing any equipment, obtaining witness consents, conduct of hearings related to the media coverage or other media coverage questions.

To assist media agencies to prepare in advance of media coverage: (i) the commission will attempt to make the hearing room available for the purpose of installing equipment; (ii) counsel shall provide witness lists upon request (to the extent they deem their client's rights will not be jeopardized); and (iii) the Commission, upon specific request, will inform the media agencies of settings or proceedings.

VI. POOLING ARRANGEMENTS.

It is ORDERED that if more than one media agency of any type seeks to cover the proceeding, they shall make their own pooling arrangements without calling upon the Commission to mediate any dispute. If they are unable to agree, the Commission may deny media coverage by that type of media agency.

Any media representative who has obtained Commission permission for coverage shall pool its tape or photographs at the request of other media representatives without requiring said other representatives to obtain further Commission approval.

VII. OTHER AUDIO OR VISUAL COVERAGE.

It is ORDERED that any other audio or visual coverage of Commission proceedings is strictly prohibited unless specifically authorized by the Commission. This shall be interpreted to mean that no individual, entity, media agency and/or its agents and representatives shall, at any time, whether on or off the evidentiary record, record anything by audio or visual means unless specifically authorized by the Commission.

It is further ORDERED that this prohibition of other audio and visual coverage shall apply to the use of cell phones in the hearing room while the proceeding is being conducted on the record.

VIII. OFFICIAL RECORD.

It is ORDERED that the official Commission record of any proceeding is the transcript of the original notes of the Commission reporter. Films, videotapes, photographs or audio reproductions of the proceeding, created pursuant to these Guidelines, shall not be considered as part of the official Commission record.

IX. SANCTIONS FOR VIOLATION.


All persons, agencies, and/or organizations affected by this order are hereby informed that violations of this Guideline may result, within the Commission's discretion, in one or more of the following sanctions:

1. Prohibiting any photographing, recording and broadcasting of the proceeding;
2. Prohibiting the violating individual or entity from participating in the pooling of any photographing, recording and broadcasting of said proceeding;
3. Temporary or permanent expulsion of said violating individual or entity from photographing, recording and broadcasting of any proceedings and the participating in any pooling of same;
4. Confiscation of any video, audio, and/or photographic recording taken in violation of the Commission's order; and

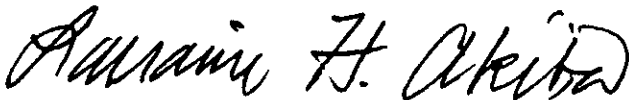
5. Any such other Orders, relief, or penalty deemed by the Commission to be just, equitable, and necessary.

DONE at Honolulu, Hawaii SEP 17 2015.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Randall Y. Iwase, Chair

By 
Michael E. Champley, Commissioner

By 
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:


Mark Kaetsu
Commission Counsel

2015-0022.ljk

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The foregoing order was served on the date of filing by mail,
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