BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

---- In the Matter of ----

PUBLIC UTILITIES COMMISSION

DOCKET NO. 2014-0192

Instituting a Proceeding

to Investigate Distributed


ORDER NO. 35701

APPROVING, WITH MODIFICATIONS, THE HAWAIIAN ELECTRIC COMPANIES'
PROPOSED REVISIONS TO RULE NO. 24 FILED ON MAY 31, 2018

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APPROVING, WITH MODIFICATIONS, THE HAWAIIAN ELECTRIC COMPANIES’
PROPOSED REVISIONS TO RULE NO. 24 FILED ON MAY 31, 2018

By this Order, the commission approves, with certain
modifications, the proposed revisions to Rule No. 24

1The Parties to this proceeding are HAWAIIAN ELECTRIC COMPANY,
INC. (“HECO”), HAWAII ELECTRIC LIGHT COMPANY, INC. (“HELCO”),
MAUI ELECTRIC COMPANY, LIMITED (“MECO”) (collectively, HECO,
HELCO, and MECO are referred to as the “HECO Companies”),
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 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”),
the 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, LLC (“EFCA”).
(Customer Grid-Supply Plus),\(^2\) submitted by the HECO Companies on May 31, 2018.

I.

BACKGROUND

On October 20, 2017, the commission issued Decision and Order No. 34924 ("D&O 34924"), which addressed the "Technical Track" issues (Issue Nos. 3 and 4), as well as components of the "Priority" issues (Issue Nos. 1 and 2), as set forth in the statement of issues in Order No. 34206.\(^3\) In pertinent part, D&O 34924 approved a new opt-in DER tariff, the "Customer Grid-Supply Plus" ("CGS+") tariff.\(^4\)

The HECO Companies were instructed to file a proposed CGS+ tariff within sixty (60) days of D&O 34924.\(^5\)

On December 22, 2017, the commission, among other things, invited the Parties to submit comments on the

\(^2\)The HECO Companies’ Rule No. 24 tariff is the tariff governing their CGS+ program. Accordingly, the terms "Rule No. 24 Tariff" and "CGS+ Tariff" are used interchangeably throughout this Order.

\(^3\)See Decision and Order No. 34924, filed October 20, 2018; and Order No. 34206, "Establishing Statement of Issues and Procedural Schedule for Phase 2," filed December 9, 2016, at 7-9.

\(^4\)See D&O 34924 at 139-49 and 180-85.

\(^5\)See D&O 34924 at 193.
HECO Companies' proposed CGS+ Tariff. Comments were subsequently filed by DERC, EFCA, the Consumer Advocate, and several of the solar industry and non-profit Parties.

On February 5, 2018, the commission issued Order No. 35266, which, in relevant part, approved, with modifications, the HECO Companies’ proposed CGS+ Tariff. Regarding the proposed CGS+ Tariff, Rule No. 24, the commission found, in relevant part:

[Information about the requirements for a third-party aggregator should be included in


the tariff. The Joint Parties note that under the HECO Companies’ proposal, such information would be published by the utility, at its discretion, on its website. The commission agrees that providing information on the technical requirements and approval process for third-party aggregators is vital to developing interest and timely response to this new program and the HECO Companies should include this information in the tariff. However, the present lack of clarity around third-party aggregator requirements should not delay the availability of the CGS+ option for customers. To the extent the HECO Companies require additional time to develop and propose telemetry and control requirements, the Companies are directed to submit proposed requirements in this docket, which shall be incorporated into the tariff upon approval. Furthermore, the tariff should clarify that the costs of a third-party aggregator will be borne by the customer.

Furthermore, the tariff should contain specific communication and control requirements. As proposed, Rule 24 does not provide details regarding communication and control features, stating that “the acceptable method(s) of implementing the Communication and Control requirements will be specified by the Company, consistent with the requirements of Decision and Order No. 34924 in Docket No. 2014-0192, and made publicly available on the Company’s website.” The Joint Parties, EFCA, and DERC all raise varying objections to this language.

The HECO Companies shall provide more specific details as to how the Communication and Control requirements will be implemented, consistent with D&O 34924, in the language of the tariff. Consistent with D&O 34924, the HECO Companies shall bear the cost of metering and control of a CGS+ customer’s system for customers who choose the non-aggregator option. As clarified above, for customers who elect a third-party

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aggregator, they will be responsible for the costs of contracting with the system aggregator.\textsuperscript{9}

The commission also voiced concerns over the delays in implementing the CGS+ tariff, noting that "D\&O 34924 was issued on October 20, 2017 . . . . [and] [u]nder the circumstances, the commission is not inclined to delay implementation of the tariffs any longer."\textsuperscript{10} However, "[t]hat being said, as discussed above, the commission is requiring certain modifications to these proposed tariffs, which will provide the HECO Companies with reasonable time to make these modifications and submit the final tariffs."\textsuperscript{11} The HECO Companies were instructed to file a revised proposed CGS+ Tariff within ten days of Order No. 35266, at which time it was intended to go into effect.\textsuperscript{12}

On February 20, 2018, the HECO Companies submitted, in relevant part, their revised CGS+ tariff, pursuant to Order No. 35266 ("February CGS+ Tariff").\textsuperscript{13}

\footnotesize{\textsuperscript{9}Order No. 35266 at 11-13 (internal citations omitted).}
\textsuperscript{10}Order No. 35266 at 14-15.
\textsuperscript{11}Order No. 35266 at 15.
\textsuperscript{12}Order No. 35266 at 15.
\textsuperscript{13}Letter From: D. Brown To: Commission Re: Docket No. 2014-0192 - Instituting a Proceeding to Investigate Distributed Energy Resource Policies; Hawaiian Electric Companies - Compliance Filing; Rule 14H, Customer Grid Supply Plus and Smart Export Tariff Sheets, filed February 20, 2018. See also Order No. 35266 at 22-23 (Ordering Paragraph Nos. 2 and 3).}
On March 28, 2018, in response to the HECO Companies’ February CGS+ Tariff, the commission issued Order No. 35369, in which the commission “observes that several issues remain that require immediate attention and resolution.”14 Specifically, regarding the February CGS+ Tariff, the commission stated:

The HECO Companies “Communications and Controllability” section of Rule 24, while providing general details for communication and control features requirements, does not appear to have resolved the ambiguity and uncertainty present with that of the former, proposed “Communications and Controllability” provision. Indeed, the commission notes that critical details pertaining to the communications and controllability for CGS+ systems remain unspecified in Rule 24.

The commission remains troubled by the lack of clarity from the Companies for assisting customers to understand how the communications and controllability features will be offered. The commission underscores the need to very clearly set forth the specific communications and controllability requirements within the tariff itself, such that customers can make an informed investment decision with little to no ambiguity around compliance with Rule 24.15

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15Order No. 35369 at 11-12.
Furthermore, "[b]eyond the general lack of specificity offered regarding communication and controllability requirements, Rule 24 includes language that mischaracterizes a customer's obligations under the tariff."\textsuperscript{16} Accordingly, the commission directed the HECO Companies "to revise the tariff so that it more accurately captures a customer's obligations under Rule 24, and reflects the fact that it is the separate smart production meter, or third-party aggregator solution, that is providing the communication control and interface, rather than the customer's generating facility itself."\textsuperscript{17}

In addition, the commission noted that the HECO Companies' February CGS+ Tariff customer eligibility language "may be too narrowly construed," in that the tariff's requirement of "acceptable telemetry interface" "may be particularly problematic for customers on neighbor islands and/or in rural communities whose location may prohibit adequate reception of the Companies' chosen cellular or comparable communications technology, and/or who may lack access to the specific telecommunications network selected by the Companies."\textsuperscript{18} Accordingly, the commission instructed the HECO Companies

\textsuperscript{16}Order No. 35369 at 12-13.
\textsuperscript{17}Order No. 35369 at 14.
\textsuperscript{18}Order No. 35369 at 14-15.
to revise their February CGS+ Tariff to address the commission's concerns.\textsuperscript{19}

The commission also reiterated its concerns regarding the estimated timeline for implementing the February CGS+ Tariff, stating:

The commission finds that the timeline outlined by the Companies needs to be accelerated in order to provide customers with a CGS+ program third-party aggregator communication and controllability option in the near term. To that end, the Companies are directed to develop interim option(s) to enable customers to utilize a third-party aggregator to provide communications and control capabilities described in D&O 34924. This capability shall be enabled no later than May 31, 2018. The commission reiterates the need for the Companies to collaborate with prospective third-party aggregators on the development of this capability.\textsuperscript{20}

On April 30, 2018, pursuant to Order No. 35369, the HECO Companies filed, in pertinent part, a further revised CGS+ Tariff that addressed the communications and control and

\textsuperscript{19}See Order No. 35369 at 15-16.

\textsuperscript{20}Order No. 35369 at 16. On this issue, the commission noted its support of the HECO Companies' proposal to utilize the Demand Response Management System ("DRMS") as a potential long-term solution for integrating and enabling third-party aggregators in the CGS+ program, but noted that this was not suitable to address the interim, near-term needs, given that the DRMS is not scheduled to go live until November 2018 at the earliest. Id. at 17.
customer eligibility concerns raised by the commission in Order No. 35369 ("April CGS+ Tariff").\textsuperscript{21}

On May 31, 2018, the HECO Companies submitted their May CGS+ Compliance Filing, which included additional provisions for third-party aggregators as part of their proposed CGS+ Tariff, in response to guidance provided in Order No. 35369 ("May CGS+ Tariff").\textsuperscript{22}

On June 29, 2018, the commission issued Order No. 35563 in which, in relevant part, the commission found that the HECO Companies’ April and May revisions to the CGS+ Tariff were “generally consistent with the commission’s directives in Order No. 35369,” but provided the Parties with an opportunity to submit comments on the April and May revisions to the CGS+ Tariff.\textsuperscript{23}

\textsuperscript{21}"Hawaiian Electric Companies’ Compliance Filing; Rule 24 (Customer Grid Supply Plus) and Rule 25 (Smart Export) Tariffs and Appendix I; Docket No. 2014-0192," filed April 30, 2018.


\textsuperscript{23}Order No. 35563, “Addressing: (1) The Hawaiian Electric Companies’ Rule 24 (Customer Grid Supply Plus) and Rule 25 (Smart Export) Tariff Sheets Filed April 30, 2018; (2) The Hawaiian Electric Companies’ Customer Grid Supply Plus Tariff Sheet Compliance Filing Filed May 31, 2018; (3) The Hawaiian Electric Companies’ Proposed Policy and Procedure for Adding to NEM Systems Filed March 9, 2018; (4) Motion to Reaffirm and Enforce Commission-Approved Interconnection and Queuing Policy Regarding Modifications to DER System Size Filed April 9, 2018; 2014-0192 9

II.
DISCUSSION
A.
Addressing DERC's Comments

Pursuant to Order No. 35563, comments on the HECO Companies' April and May CGS+ Tariffs were due within fifteen days of the filing of Order No. 35563; i.e., July 16, 2018.


26Order No. 35563 at 17. Order No. 35563 was filed on June 29, 2018, making the fifteenth day after filing July 14, 2018, a Saturday. Pursuant to HAR § 6-61-22 (Computation of time), "[t]he last day of the period so computed shall be included unless it is a Saturday, Sunday, or holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday,
DERC's CGS+ Comments, filed July 31, 2018, were filed after this deadline.

DERC did not move the commission for an enlargement of time to file comments on the HECO Companies' April and May revisions to the CGS+ Tariff prior to the expiration of the prescribed period set forth in Order No. 35563, i.e., before July 16, 2018, nor did it provide evidence of excusable neglect for missing the deadline.27

The commission notes that DERC has been an active Party to this proceeding and that it has, in the past, offered comments and briefing which have helped inform the commission's decisions in this docket. The commission further expects that DERC will continue to assist in the building of a sound record in the instant docket. That being said, the commission has cautioned the Parties, including DERC, that the commission intends to hold them "to a standard of participation in terms of quality, relevance, and timeliness."28 Here, DERC has not complied with HAR § 6-61-23 by either: (1) seeking an enlargement of time prior to the

or holiday." Thus, the comment period set forth in Order No. 35563 expired on July 16, 2018, the following Monday.

27See HAR § 6-61-23 (governing enlargement of time in commission proceedings).


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expiration of the comment period set forth in Order No. 35563; nor (2) demonstrating excusable neglect for submitting its comments after the expiration of the comment period. Accordingly, based on the record before it, the commission does not find that DERC has shown good cause to enlarge the time for DERC to submit its comments on the April and May revision to the CGS+ Tariff, and therefore has not considered DERC’s comments for the purposes of this Order.

B. Comments By The Parties

EFCA raises concerns regarding "the importance of ensuring effective coordination between the effort to establish aggregator requirements under the CGS+ tariff and ongoing efforts to create a Grid Services Purchase Agreement ("GSPA") in the Commission’s demand response proceeding, Docket No. 2015-0412."\(^\text{29}\) EFCA suggests that the discussion of the standardized aggregator requirements for the CGS+ Tariff should be coordinated with the GSPA efforts in Docket No. 2015-0412:

\[\ldots\] EFCA submits that it would be premature for the Commission to adopt a standardized aggregator contract in the context of the CGS+ tariff as the same issues will be discussed by stakeholders that are involved in discussions regarding grid services.

\[^{29}\text{EFCA CGS+ Comments at 1-2.}\]
Accordingly, EFCA recommends that efforts to create a standardized aggregator contract under the CGS+ tariff should occur in close coordination with efforts to do the same for the GSPA contract. Absent such close coordination, any findings in the instant proceeding could prejudice the discussions in the GSPA context. To that end, any standardized aggregator requirements established for the CGS+ tariff should be based on the standardized aggregator requirements that stakeholders ultimately develop, and the Commission approves, with respect to the GSPA contract.\(^{30}\)

In Docket No. 2015-0412, the commission has “strongly suggest[ed] that the Companies file a second, revised GSPA, sometime in the March 2019 timeframe.”\(^{31}\) EFCA suggests that in the interim, “entities seeking to meet the communication and control requirements under the CGS+ tariff via the aggregator option should enter into bilateral negotiations with HECO to establish the terms under which they can do so.”\(^{32}\)

HPVC requests that the “the HECO Companies remain open to further dialogue and adjustments as the market for the CGS+ program develops” citing that “[q]uestions remain about the

\(^{30}\)EFCA CGS+ Comments at 3-4.


\(^{32}\)EFCA CGS+ Comments at 4.
most efficient and effective means of improving communications and control and also requirements for third-party aggregators."\textsuperscript{33}

C.

**Revisions to the Rule 24 (CGS+) Tariff**

In Order No. 35563, the commission found that HECO's April and May revisions to the CGS+ Tariff were "generally consistent with the commission's directives in Order No. 35369," but offered the Parties an opportunity to provide comment on these Tariffs. After reviewing the timely comments filed by EFCA and HPVC, the commission affirms its early inclination that the April and May revisions to the CGS+ Tariff are consistent with Order No. 35369 and address many of the concerns raised therein. However, certain modifications to the April and May revisions to the CGS+ Tariff should be made to address some of the concerns raised in EFCA's and HPVC's comments.

Specifically, the commission declines, at this time, to adopt the HECO Companies' proposed "Distributed Energy Resources Aggregation Agreement," attached as Appendix II to the May revisions to the CGS+ Tariff. While the commission earlier instructed the HECO Companies to develop requirements for third-party aggregators and include them directly in the

\textsuperscript{33}HPVC CGS+ Comments at 2.
CGS+ Tariff, the commission is also mindful of the considerations raised by the Parties on this issue. In particular, EFCA notes that the development of third-party aggregator requirements in this proceeding are likely to overlap with the issues surrounding the development of the GSPA in the Demand Response proceeding, Docket No. 2015-0412. After review of the May revisions to the CGS+ Tariff, the commission concurs with EFCA’s assessment that the development of standardized third-party aggregator requirements for the CGS+ Tariff should move in parallel with, and be informed by, the development of a standardized GSPA in the Demand Response proceeding.

Accordingly, the HECO Companies shall modify the CGS+ Tariff to remove certain language associated with specific third-party aggregator requirements. In this regard, the commission observes that the May revisions to the CGS+ Tariff update certain portions of the April CGS+ Tariff that deal specifically with third-party aggregator requirements. Thus, the commission’s modifications shall pertain to the May CGS+ Tariff, as it represents the most recent proposal submitted by the HECO Companies.

\[34\text{See Order No. 35266 at 11-12.}\]
\[35\text{See EFCA CGS+ Comments at 3-4.}\]
In particular, the May CGS+ Tariff shall be modified as follows:

(1) Rule No. 24, Revised Sheet No. 47E shall be revised to remove reference to the "standard Distributed Energy Resources Aggregation Agreement."

(2) Rule No. 24, Appendix I, Revised Sheet No. 47.1-D shall be revised to modify item (e) to remove reference to the "standard Distributed Energy Resources Aggregation Agreement."

(3) Rule No. 24, Appendix II (Distributed Energy Resources Aggregation Agreement) shall be removed in its entirety; i.e., Revised Sheet Nos. 47.2-A thru 47.2-BD.

In sum, the commission instructs the HECO Companies to make the following changes to the May CGS+ Tariff (addition noted in underline and deletions noted in strikethrough):

REvised Sheet No. 47E

D. COMMUNICATIONS AND CONTROLLABILITY
Subject to the Communications and Control requirements set forth in this Paragraph D, the Customer-Generator may elect to either: (1) have the Company install a separate smart production meter to be owned, installed or operated by the Company in which case the Company shall be responsible for the cost of metering and control of the Customer-Generator's Generating Facility (the "Smart Meter Option"); or (2) contract separately with a third-party aggregator who has signed a standard Distributed Energy Resources Agreement provided as Appendix II of this Rule (the "Aggregation Option"), where pursuant to which the Company will accept aggregated data from such aggregators that can
provide all the services and meet all the obligations as set forth in the Aggregation Agreements including, without limitation, meeting the Company’s technical requirements for reliability of data collection and provision to the Company consistent with Section 8.f of Appendix I to this Rule No. 24 (the “Aggregator Option”). A Customer-Generator who elects the Aggregator Option shall be responsible for the costs of contracting with the third-party aggregator.

......

APPENDIX I, REVISED SHEET NO. 47.1-D

(e) Subject to the Communication and Controls requirements set forth in this Section 8 (Installation), the Customer-Generator may elect to either: (1) have the Company install a separate smart production meter to be owned, installed or operated by the Company (the “Smart Meter Option”); or (2) contract separately with a third-party aggregator who has signed a standard Distributed Energy Resources Aggregation Agreement provided as Appendix II of the Customer Grid Supply Plus Tariff (the “Aggregation Agreement”), where pursuant to which the Company will accept aggregated data from such aggregators that can provide all the services and meet all the obligations as set forth in the Aggregation Agreement, including, without limitation, meeting the Company’s technical requirements for reliability of data collection and provision to the Company (the “Aggregator Option”). Such third-party aggregators shall also be required to provide a flexible mechanism through which a general connect/disconnect function can be configured, i.e. a function that separates the Generating Facility from the grid while leaving the customer’s load connected to the grid.
Additionally, as noted above, Appendix II to the May CGS+ Tariff should be removed in its entirety.

In order to address the interim period while standardized aggregator requirements are developed, the HECO Companies shall work directly with interested third-party aggregators on a case-by-case basis to ensure that customers are provided the option to utilize a third-party aggregator, consistent with the intent of the CGS+ program. The commission will continue to examine the issue of developing standardized third-party aggregator requirements in conjunction with the development of a standardized GSPA in Docket No. 2015-0412.

III.

ORDERS

THE COMMISSION ORDERS:

1. The HECO Companies’ May CGS+ Tariff, as modified above, is approved. The HECO Companies shall submit a revised Rule No. 24 tariff reflecting the approved revisions in this Order. Upon filing, the revised Rule No. 24 tariff shall take effect.
2. The HECO Companies shall work directly with interested third-party aggregators on a case-by-case basis to ensure that customers are provided the option to utilize a third-party aggregator, consistent with the intent of the CGS+ program.

DONE at Honolulu, Hawaii

SEP 20 2018

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By
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By
James P. Griffin, Commissioner

By
Jennifer M. Potter, Commissioner

APPROVED AS TO FORM:

Mark Kaetsu
Commission Counsel

2014-0192.1jk
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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