

BOARD OF LAND AND NATURAL RESOURCES


STATE OF HAWAII

IN THE MATTER OF)	Case No. BLNR-CC-17-001
)	
A Contested Case Hearing Re Final Habitat)	MINUTE ORDER NO. 2;
Conservation Plan and Incidental Take License)	EXHIBIT 1;
for the Na Pua Makani Wind Energy Project)	CERTIFICATE OF SERVICE
by Applicant Na Pua Makani Power Partners,)	
LLC; Tax Map Key Nos. (1) 5-6-008:006)	
and (1) 5-6-006:018, Koolauloa District, Island)	
of O'ahu, Hawaii.)	
_____)	

MINUTE ORDER NO. 2

Notice is hereby given that the deadline to submit comments or objections to the appointment of Yvonne Izu as the hearing officer for the above-entitled contested case is extended, and comments or objections shall be filed no later than 4:30 p.m. on March 16, 2017, at the DLNR Administrative Proceedings Office, 1151 Punchbowl Street, Room 130, Honolulu, Hawaii 96813, or postmarked no later than March 16, 2017 to P.O. Box 621, Honolulu, Hawaii 96809. The Board of Land and Natural Resources will only consider objections or comments that are in writing and submitted to the Board. A supplemental disclosure from Ms. Izu is attached hereto as Exhibit "A".

DATED: Honolulu, Hawaii, March 9, 2017.



 SUZANNE D. CASE, Chairperson
 Board of Land and Natural Resources

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the following documents:

1. Minute Order No. 2, Dated March 9, 2017

Was duly served upon the following parties, by U.S. Mail, postage prepaid, on March 9, 2017, at addresses below:

Keep the North Shore Country
c/o Maxx Phillips, Esq.
66-250 Kamehameha Hwy, Suite D-103
Haleiwa, Hawaii 96712
ATTORNEY FOR PETITIONER

Ms. Elizabeth J. Rago
56-331 Kekauoha Street
Kahuku, Hawaii 96731
PETITIONER

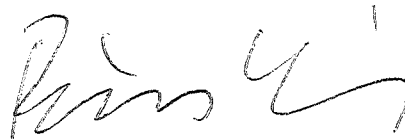
James H. Wright, Esq.
Law Offices of James H. Wright
2182 Apio Lane
Honolulu, Hawaii 96817
ATTORNEY FOR PETITIONERS
KAHUKU COMMUNITY ASSOCIATION,
MAKANI PONO 'O KAHUKU, and
KENT FONOMOANA

Timothy Lui-Kwan, Esq.
John P. Manaut, Esq.
Puananionaona P. Thoene, Esq.
Carlsmith Ball LLP
American Savings Bank Tower
1001 Bishop Street, Suite 2200
Honolulu, Hawaii 96813
ATTORNEYS FOR APPLICANT NA PUA MAKANI
POWER PARTNERS, LLC

Yvonne Y. Izu, Esq.
Moriyara Lau & Fong LLP
841 Bishop Street, Ste. 400
Honolulu, HI 96813
HEARING OFFICER

Cindy Y. Young
Deputy Attorney General
Department of the Attorney General
465 South King Street, Room 300
Honolulu, Hawaii, 96813
COUNSEL FOR THE
BOARD OF LAND AND NATURAL RESOURCES

DATED: Honolulu, Hawaii, March 9, 2017



BIN C. LI
Administrative Proceedings Coordinator
Department of Land and Natural Resources

MORIHARA LAU & FONG LLP
A LIMITED LIABILITY LAW PARTNERSHIP

March 7, 2017

Suzanne Case, Chairperson
Board of Land and Natural Resources
P. O. Box 621
Honolulu, Hawai'i 96809

SUBJECT: Contested Case Hearing In Re Na Pua Makani Wind Energy
Project Incidental Take License and Habitat Conservation Plan –
Conflicts Clearance: Supplemental Information

Dear Chair Case:

By letter dated February 6, 2017, I provided information about my and my firm's relationships with the individuals and organizations that are or may be parties, or representatives of parties, to this contested case.

This supplemental disclosure is made pursuant to requests for additional information received by Mr. Bin Li from Mr. James Wright.

- Morihara Lau & Fong LLP ("MLF") has never represented any of the Hawaiian Electric Companies with respect to any wind energy matters.
- Currently, MLF is assisting HECO in its 2017 Rate Case before the Hawai'i Public Utilities Commission ("PUC") – Docket No. 2016-0328. MLF is involved in very limited portions of the case, assisting in preparing a few testimonies and in responding to selected information requests, none of which involve wind energy.
- MLF is assisting HELCO in its 2016 Rate Case before the PUC in Docket No. 2015-0170. MLF is involved in very limited portions of the case, assisting in preparing a few testimonies and in responding to selected information requests, none of which involve wind energy.
- MLF is assisting HELCO in securing a long-term water lease from the Board of Land and Natural Resources for its hydropower plant in Hilo.
- MLF is currently assisting HECO in potentially modifying a component of its decoupling mechanism. This matter is in preliminary stages and is not currently before the PUC.

EXHIBIT "A"

Suzanne Case, Chairperson
March 7, 2017
Page 2

- Aside from these matters, MLF has not represented the Hawaiian Electric Companies in any other cases over the past two years.
- MLF's involvement in PUC Docket No. 2015-0389 is as counsel to Kauai Island Utility Cooperation, and not to any of the Hawaiian Electric Companies.

I earlier disclosed the above information via emails to Mr. Li, and Mr. Li transmitted the information to Mr. Wright. Inasmuch as this three-way communication may be construed as *ex parte* communications, I ask that this supplemental letter be relayed to all of the parties and potential parties. The contents of this supplemental letter comprise the entirety of the information I exchanged via email with Mr. Li regarding this matter. (Attached are the emails showing these communications.)

Please feel free to contact me if you have any questions.

Very truly yours,



Yvonne Y. Izu

Attachments

c: Bin Li, DLNR (bin.c.li@hawaii.gov)
Cindy Young, Deputy AG (Cindy.Y.Young@hawaii.gov)

Yvonne Y. Izu

From: Yvonne Y. Izu
Sent: Tuesday, February 28, 2017 4:06 PM
To: 'Li, Bin C'
Subject: RE: In Re: Na Pua Makani contested case hearing

Morihara Lau & Fong LLP (MLF) has never represented any of the Hawaiian Electric Companies with respect to any wind energy matters.

Currently, MLF is assisting HECO in its 2017 Rate Case and HELCO in its 2016 Rate Case. In both cases, MLF is involved in very limited portions of the rate case, assisting in preparing a few testimonies and in responding to selected information requests (none of which involve wind energy).

MLF is also currently assisting HECO in potentially modifying a component of its decoupling mechanism; this matter is in preliminary stages and is not currently before the Hawai'i Public Utilities Commission.

MLF is also assisting HELCO in securing a long-term water lease from the Board of Land and Natural Resources for its hydropower plants in Hilo.

From: Li, Bin C [<mailto:bin.c.li@hawaii.gov>]
Sent: Tuesday, February 28, 2017 2:01 PM
To: Yvonne Y. Izu
Subject: FW: In Re: Na Pua Makani contested case hearing

Aloha Ms. Izu,

We received this inquiry below from Mr. James Wright in the above-titled case. Can you please respond via email to me by March 3, 2017? I'll allow him additional time to file his response afterward. Thank you.

Bin C. Li
Administrative Proceedings Coordinator
Department of Land & Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813
Tel 808-587-1496, Fax 808-587-0390
Bin.C.Li@hawaii.gov

From: James H. Wright [<mailto:wright@hawaii.rr.com>]
Sent: Tuesday, February 28, 2017 1:34 PM
To: Li, Bin C <bin.c.li@hawaii.gov>; DLNR.CO.APO <dlnr.co.apo@hawaii.gov>
Subject: RE: In Re: Na Pua Makani contested case hearing

I understand that Hawaiian Electric has an agreement to buy the power from the Na Pua Makani project. I think that the proposed Hearings Officer needs to supplement her disclosure with details of her/her firm's representation of Hawaii Electric Industries and its subsidiaries and affiliates. I am aware that she/her firm are representing HEI in at least one matter involving wind energy among other renewables.

I will place a copy of this in the mail today.

Absent a complete disclosure I do not think the parties have been given a fair opportunity to lodge an objection or to refrain from doing so.

Jim Wright

From: Li, Bin C [<mailto:bin.c.li@hawaii.gov>]
Sent: Tuesday, February 14, 2017 3:40 PM
To: DLNR.CO.APO
Subject: In Re: Na Pua Makani contested case hearing

Aloha,

Please see attached file for Minute Order #1 in the Na Pua Makani contested case. A separate hardcopy has been mailed to you today. This is a courtesy email notice only.

Let me know if you have any questions.

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Administrative Proceedings Coordinator
Department of Land & Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813
Tel 808-587-1496, Fax 808-587-0390
Bin.C.Li@hawaii.gov

Yvonne Y. Izu

From: Yvonne Y. Izu
Sent: Thursday, March 02, 2017 4:28 PM
To: 'Li, Bin C'
Subject: RE: In Re: Na Pua Makani contested case hearing

In PUC Docket No. 2015-0389, MLF represents Kauai Island Utility Cooperative, not any of the Hawaiian Electric Companies.

The HECO 2017 Rate Case is PUC Docket No. 2016-0328.

The HELCO 2016 Rate Case is PUC Docket No. 2015-0170.

Again, in both rate cases, MLF is involved in very limited portions of the case, none of which involve wind energy.

Aside from those dockets listed above and the other 2 matters disclosed in my earlier email, MLF has not represented the HECO companies in any other cases over the past 2 years.

From: Li, Bin C [mailto:bin.c.li@hawaii.gov]
Sent: Wednesday, March 01, 2017 12:02 PM
To: Yvonne Y. Izu
Subject: FW: In Re: Na Pua Makani contested case hearing

Aloha Yvonne,

See below. Your answer to his question is appreciated. Thank you.

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Administrative Proceedings Coordinator
Department of Land & Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813
Tel 808-587-1496, Fax 808-587-0390
Bin.C.Li@hawaii.gov

From: James H. Wright [mailto:wright@hawaii.rr.com]
Sent: Wednesday, March 01, 2017 11:17 AM
To: Li, Bin C <bin.c.li@hawaii.gov>
Subject: RE: In Re: Na Pua Makani contested case hearing

In the absence of docket references, it is difficult to verify what Ms. Yzu is saying. I think the first sentence of her response is false in light of Docket 2015-0389 in which her/her firm's representation of HEI included wind and other forms of renewables. Please forward this to Ms. Yzu and ask both for the docket numbers of any matters presently pending and any in which she/her firm represented HEI/affiliates/subsidiaries in the last 2 years.

I would also like to understand how she can simultaneously fulfill her obligations as a fiduciary to HEI and perform as a hearings officer. Given the pressure on HEI to increase renewables such as wind and her role as representing power generators and distributors can she really be – or be perceived as - impartial – when the interests of at least one current client (and a universe of potential clients) would be materially adversely affected by a decision she will make. As the

attached image from the website shows, her firm touts its preeminence in public utilities matters. Necessarily, what she does here could have a serious positive or negative impact on the firm's client relationships.

From: Li, Bin C [<mailto:bin.c.li@hawaii.gov>]
Sent: Wednesday, March 01, 2017 9:15 AM
To: James H. Wright
Subject: FW: In Re: Na Pua Makani contested case hearing

Mr. Wright,

Below please find Ms. Izu's response to your inquiry. I'm extending your response deadline to Monday, March 6, 2017 if you wish to further address the issue.

Bin C. Li
Administrative Proceedings Coordinator
Department of Land & Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813
Tel 808-587-1496, Fax 808-587-0390
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