



What's next for the NextEra-Hawaiian Electric deal?

Stakeholders say NextEra 'needs a hearing aid,' not another lobbyist

By Herman K. Trabish | July 26, 2015

Despite Hawaii Governor David Ige's opposition to the proposed \$4.3 billion merger of the Hawaiian Electric Companies and NextEra Energy, the power companies are not backing down.



But both companies now seem to realize they will have to do a better job of convincing the people of Hawaii and their leaders this deal is right for the state.

The proposed deal "is a very important matter for our customers, our communities and the state at large," Hawaiian Electric Company (HECO) President and CEO Alan Oshima said in a release last week after Ige announced his opposition to the deal.

Thorough vetting through the state's regulatory process will show "this partnership with NextEra Energy will result in significant benefits for our customers and for Hawaii's leadership in clean energy," Oshima wrote.

The merger is in the best interests of Hawaii and its electricity customers and "we know that the public interest is more than economic benefits," NextEra Energy Chief Communications Officer Robert Gould wrote to Utility Dive. NextEra "will listen to and work with all stakeholders to achieve what's best."

Utility Dive's interviews and study of media reports have turned up no evidence of unqualified support for the merger among the 28 parties designated as intervenors in the Hawaii Public Utilities Commission proceeding. That conclusion was confirmed by similar Honolulu Star Advertiser and Hawaii Tribune Herald informal surveys.

One official intervenor, who spoke on the condition of anonymity due to the ongoing proceeding, put the count at 17 intervening parties opposed, 9 neutral, and 2 proposing alternatives.

Though NextEra's capital infusion would be valuable, it has not shown its plans for HECO "align with the state's 100 percent renewable energy goal," Governor Ige announced. Therefore, "the state respectfully opposes the merger in its current form."

Beyond the more than \$600 million the merger would bring to Hawaii within five years, Gould responded.

While both companies declined to go into further detail than has already been provided in public statements, Gould wrote to Utility Dive that the regulatory process will reveal the Florida-based NextEra's intention to "strengthen and accelerate" HECO's transformation to clean energy and NextEra will use its "extensive renewable energy expertise and resources" to "support" Hawaii in getting to its 100% renewables by 2045 goal.

The complaints

"It's not that this deal is a bad deal, necessarily, it's that the case hasn't been made," former Hawaii State Energy Administrator Ted Peck told Hawaii News Now.

“Questions remain” and “there remain questions or uncertainty on issues” were the phrases that echoed through the extensive filing from the Hawaii Office of Planning, cited by the Governor’s office in support of his opposition to the current form of the merger.

Under Hawaii law, HECO and NextEra must demonstrate the proposed merger is “reasonable and in the public interest” and will result in “utilities that are fit, willing, and able to perform requisite services,” according to expert witness Karl Rabago. His filing with the Hawaii Department of Business, Economic Development, and Tourism (DBEDT) was also cited by the Governor’s office in its opposition statement.

“Mr. Rabago finds the applicants [HECO and NextEra] failed to provide sufficient evidence of plans or commitments that would demonstrate the incremental benefits to the residents of Hawaii resulting from the proposed transaction,” the filing reads.

In addition, Rabago testified, actions and policies by NextEra’s regulated subsidiary Florida Power & Light suggest the proposed transaction is “antithetical” to Hawaii’s policy mandates and “presents identifiable risks of harm for which the applicants provide no mitigation commitments.”

“NextEra Energy shares Hawaiian Electric’s vision of increasing renewable energy, modernizing its grid, reducing Hawaii’s dependence on imported oil, integrating more rooftop solar energy and, importantly, lowering customer bills,” NextEra Chair/CEO Jim Robo was quoted in the companies’ 2014 deal announcement.

He described “engaging with and listening to key stakeholders” and bringing to Hawaii “all the capabilities of a renewable energy leader, including utility-scale and distributed solar, wind and battery storage, as well as the resources to help accelerate Hawaiian Electric’s efforts to pursue a new energy future.”

But NextEra seems to not support Hawaii’s goal “to expand the use of solar, wind and other renewable resources in our grid,” Maui County Mayor Alan Arakawa said in a statement supporting Governor Ige. “NextEra seems more interested in wanting to control and limit their use.”

“The call for self-sufficiency resonates strongly with many of Hawaii’s residents,” wrote Energy Coordinator William Rolston in Hawaii County’s filing against the merger. It called for HECO and NextEra to provide “a vision for sustainability” because “there is significant lack of transparency with this transaction in terms of ‘what, how, when things will be done,’” Rolston wrote.

Net Renewable Electricity Generation, 2013 (GWh)

Location	Utilities	Independent Power Producers	Total	Utility Generation as % of Total Renewable Generation	Total All Generation	Renewable Generation as % of All Generation
Hawaii	29	798	827	3.5%	9,521	8.7%
Florida	262	2,221	2,483	10.6%	216,828	1.1%
United States	32,417	189,045	221,462	14.6%	3,903,715	5.6%

Credit: from the DBEDT filing

‘Are we getting Florida Power & Light?’

NextEra “hasn’t gone much beyond platitudes but at this stage we would expect them to say what they propose to do in Hawaii,” explained Blue Planet Foundation Executive Director Jeff Mikulina. “All NextEra has done is endorse the utility and its IRP and said ‘we will do it better.’”

Aligning with HECO is a demonstration to Mikulina that NextEra is not sensitive to Hawaii.

“Are we getting the NextEra renewable energy arm? Or are we getting Florida Power & Light?” he asked.

FPL scaled back its energy efficiency programs, is not supportive of customer choice in solar, and has argued in favor of “large scale, utility-owned renewables as opposed to customer-sited renewables,” Mikulina explained.

Skeptics believe NextEra doesn’t want to show its hand “because they are planning things that will cause more concern,” Mikulina said.

Locals are concerned that NextEra could step up liquefied natural gas imports for electricity generation instead of pushing for renewables. Or keep “the status quo utility hegemony and not become a ‘new’ utility.”

“The other concern is they could “build their own central station renewables and bring in LNG and drive out the opportunity for customer-sited renewables and for local third party renewables developers, Mikulina added.

Hawaii wants to grow today’s 21% renewables to 100% by 2045. The key question remains, according to Mikulina: “Who builds and owns that 80%?”

There are also unanswered questions about the effect NextEra, as a mainland company, will have on Hawaii heritage and culture, according to the Office of Planning filing. The merger “will not have only ‘business’ impacts,” it asserts.

Aloha “is embedded within us as a principle of how we live,” explained President Casina Waterman for Ka Lei Maile Alii Hawaiian Civic Club, the only merger proceeding intervenor concerned primarily with Native Hawaiian issues.

Kuleana, she said, means “taking responsibility for our own future” and “malama aina and malama kekahi I kekahi” means “we care about the wellness of the land and of the people.” But NextEra “exhibits none of these qualities. All decisions about how Hawaii would generate and produce electricity would be controlled from 5,000 miles away” by a vertically integrated utility “which finds it difficult to play with others.”

Waterman cited FPL’s resistance to rooftop solar and its advocacy for nuclear and the “environmentally and culturally destructive practice” of fracking. She also cited NextEra’s multimillion dollar lawsuit against a Canadian woman who opposed a wind development.

“NextEra will not drop the suit. They want to send a message. And the message is not based on Aloha,” Waterman said.



Credit: from Blue Planet Foundation (used with permission)

What's next?

“NextEra Energy Inc. doesn’t need a lobbyist, a special adviser or another lawyer to snag Hawaiian Electric Industries; it needs a hearing aid,” wrote Honolulu Star Advertiser Columnist Richard Borreca in predicting the ultimate implosion of the proposed merger.

“The significant majority of intervenors came out opposed to the merger as proposed with not a single unqualified testimony of support,” said Hawaii solar industry veteran Marco Mangelsdorf, founder of both ProVision Solar and the Hawaii PV Coalition. “The second punch was Governor Ige’s no vote on the deal.”

If the state Consumer Advocate filing, due by August 10, rejects it, Mangelsdorf said, “that would be a 1-2-3 punch that would be difficult to absorb. At what point do HEI and NextEra look for the exits?”

“It’s obvious that NextEra has tons more work to do to convince everyone this merger is a good deal,” said Earthjustice Attorney Isaac Moriwake, who represents intervenor Sierra Club. But, he said, it is early in a process that likely will not have hearings before the fall.

“This is a \$4.3 billion transaction. The merger agreement contains heavy penalties for early withdrawal,” Moriwake noted. NextEra also needs to show it can perform on these kinds of deals, so I’d be surprised if they folded this early.”

Mikulina agreed. “But the burden of proof is high on NextEra to come back and show what their vision for Hawaii really is.” Despite Blue Planet Foundation’s deep commitment to protecting Hawaii’s culture and environment, Mikulina recognizes the opportunity NextEra offers.

It “has the balance sheet to make things happen and that is something we currently don’t have with the encumbent utility.”

It would not be “the end of the world if the deal doesn’t go through” because there will be other buyers, Peck said. But deep pockets will be needed. A 2014 HECO estimate projected the cost for system upgrades at \$12.5 billion over the next 15 years.

“We see this as an opportunity for the state if NextEra comes in with the ability borrow big capital and invest in a modern grid and a utility of the future and to use Hawaii as a testbed for how a utility will operate in a 100% renewables world,” Mikulina said.

But questions remain unanswered, he added. “What sort of business is NextEra going to operate in Hawaii? Will it be an energy services company? Or will it be an FPL-like integrated vertical monopoly?”

A locally-owned alternative?

Many in Hawaii back a takeover of HECO by locally owned cooperatives or municipal utilities.

“Our future will be locally owned and locally controlled energy service companies which focus on sustainability and culturally responsible energy,” Waterman argued. “NextEra simply does not meet the need.”

Cooperative and municipal structures are “worth exploring,” Mikulina agreed. But local ownership isn’t a panacea. How the next utility is regulated and rewarded is more important. “If we don’t have a utility that is progressive, flexible, nimble, and forward-thinking and understands the shift we are seeing, it doesn’t matter what the ownership structure is.”

Though the Governor’s declaration has shifted the conversation, it is premature but not entirely mistaken to declare the NextEra-HECO merger history, believes Mangelsdorf, who is a principal in the drive to create the Hawaii Island Electric Cooperative. But the way to locally owned utilities is also not yet clear. “It depends on whether Hawaiian Electric becomes a willing seller.”