

Hawaii regulators shoot down \$4.3B NextEra Energy-Hawaiian Electric deal

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By Duane Shimogawa, Reporter Pacific Business News

Hawaii regulators on Friday shot down one of the biggest business deals in state history, which involved Florida-based NextEra Energy Inc.'s proposed \$4.3 billion acquisition of Hawaiian Electric Co.

The deal also involved dissolving Hawaiian Electric parent, Hawaiian Electric Industries Inc. (NYSE: HE), and spinning off its bank subsidiary, American Savings Bank, into a separate publicly traded company.



Hawaiian Electric Industries President and CEO Connie Lau is seen in this December 2014 file photo with Jim Robo, chairman and CEO of NextEra Energy. The Hawaii Public Utilities Commission on Friday shot down one of the biggest business deals in state history, which involved Florida-based NextEra's proposed \$4.3 billion acquisition of Hawaiian Electric Co.

In a 2-0 decision Friday, the Hawaii Public Utilities Commission dismissed the proposed acquisition without prejudice, with chairman Randy Iwase and commissioner Lorraine Akiba voting against the deal; newly appointed commissioner Thomas Gorak abstained from voting. But Gorak fully supports the ruling, and since the decision had the support of the two other commissioners, his vote was not necessary.

The PUC based its decision on whether NextEra Energy (NYSE: NEE) proved that its deal to acquire HECO was “reasonable and in the public interest” and if the Florida firm is “fit, willing and able to perform the service currently offered by the utility being acquired.”

In its decision, the PUC said that “while the applicants demonstrated that NextEra is fit, willing and able to perform the services currently offered by HECO, the applicants failed to demonstrate that the application is reasonable and in the public interest.”

HECO and NextEra issued a joint one-sentence statement after the announcement: “We are in receipt of today’s PUC order and are currently reviewing it.”

The commission focused on five areas of concern, including benefits to ratepayers, risks to ratepayers, clean energy commitments by NextEra, the effect the deal would have on local governance and the effect it would have on competition in the Hawaii market.

The PUC ruled that the benefits offered by NextEra were both “inadequate and uncertain.” NextEra proposed about \$1 billion in benefits to the state if the deal did go through.

Additionally, the PUC said that NextEra “had not offered sufficient protection to the HECO Cos. and their ratepayers, to offset the risks presented by NextEra’s complex corporate structure.”

Among other reasons, the PUC also pointed out that NextEra “failed to put forth near-term commitments for specific action tailored to Hawaii’s unique circumstance and clean energy goals.”

“It’s been a long road these past two years for the people at Hawaiian Electric with a lot of hard work put into trying to close this deal. We have a great deal of respect for their efforts,” Marco Mangelsdorf of Hawaii Island Energy Cooperative, an intervenor in the regulatory review of the sale, told PBN. “As to why this transaction did not close, we leave the reading of those tea leaves to others.”

The deal was opposed by Hawaii Gov. David Ige and most of the intervenors taking part in the regulatory review of the sale. The decision comes on the heels of the governor appointing a new commissioner earlier this month — Gorak, former chief counsel for the Public Utilities Commission, who replaced Mike Champley on the three-person state regulatory body.

“This ruling gives us a chance to reset and refocus on our goal of achieving 100 percent renewable energy by 2045,” Ige said in a statement Friday. “The proceeding helped define the characteristics and parameters of Hawaii’s preferred energy future.”

Iwase has told PBN that it’s up to Hawaiian Electric and NextEra Energy, as well as the other parties taking part in the regulatory review of the sale, to decide what to do next.

“All the parties could file a motion to reconsider or they could file an appeal to the decision if they disagree with the decision,” he said.

The state’s Consumer Advocate, which had opposed the deal, said in a statement Friday that the “PUC’s focus on customer benefits as a basis for dismissing the merger and the failure of the Applicants to support their assertions on numerous issues is supported by the record.”

“We’re not assuming that this proceeding is over yet,” Consumer Advocate Jeff Ono said in the statement. “Applicants are reviewing the PUC’s order and evaluating whether they are willing to accept the PUC’s decision or will seek a reconsideration ... Although we agree with the PUC that the applicants did not promise adequate customer benefits and provided inadequate support of the merger, we are reviewing the order to determine if any clarification to the order may be necessary.”

Ted Peck, former state Energy Office administrator and current president of Holu Energy, told PBN that he expects that if there are other suitors out there, they will be quietly approaching the leadership of HEI in the next several weeks.

“It will be HEI’s job to do due diligence,” he said. “One of the things that resulted from this process is a clear understanding of what the community is interested in, so it’s going to be up to the HEI leadership to find the nexus of community interest, ratepayer and shareholder interest.”

The NextEra Energy-Hawaiian Electric deal would have shifted the ownership of the state’s largest utility, which supplies power to about 95 percent of Hawaii’s population, to the Sunshine State.

The Florida energy giant touted its broad experience and economies of scale to turn HECO into a more efficient operation.

NextEra Energy is a publicly traded company with 13,900 employees in 26 states and Canada and \$15.1 billion in operating revenues. Its subsidiary, Florida Power & Light Co., is the largest rate-regulated electric utility in Florida, serving about 4.7 million customers, the third-largest number of customers in the U.S.

By comparison, Hawaiian Electric, a subsidiary of HEI, has approximately 4,000 employees with its own subsidiaries in Maui County and on the Big Island.