

BEFORE THE PUBLIC UTILITIES COMMISSION

FILED

OF THE STATE OF HAWAII

2015 FEB 18 P 3:17

PUBLIC UTILITIES
COMMISSION

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

MOTION TO INTERVENE

AFFIDAVIT OF JOSE S. DIZON

DECLARATION OF DEAN T. YAMAMOTO

EXHIBITS "1" AND "2"

AND

CERTIFICATE OF SERVICE

DEAN T. YAMAMOTO
 CARLITO P. CALIBOSO
 WIL K. YAMAMOTO
 TYLER P. MCNISH

YAMAMOTO CALIBOSO
 A Limited Liability Law Company
 1099 Alakea Street, Suite 2100
 Honolulu, Hawaii 96813
 Phone No.: (808) 540-4500
 Facsimile No.: (808) 540-4530
 Email: dyamamoto@ychawaii.com
ccaliboso@ychawaii.com
wyamamoto@ychawaii.com
tmcnish@ychawaii.com

Attorneys for PANIOLO POWER
 COMPANY, LLC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	
HAWAIIAN ELECTRIC COMPANY, INC.,)	Docket No. 2015-0022
HAWAII ELECTRIC LIGHT COMPANY,)	
INC., MAUI ELECTRIC COMPANY,)	
LIMITED, and NEXTERA ENERGY, INC.)	
)	
For Approval of the Proposed Change of)	
<u>Control and Related Matters.</u>)	

MOTION TO INTERVENE

PANIOLO POWER COMPANY, LLC, a Hawaii limited liability company ("Paniolo Power"), through its counsel, Yamamoto Caliboso, hereby submits this motion ("Motion") to intervene and become a party to Docket No. 2015-0022 (the "Docket"). This Motion is made pursuant to Hawaii Administrative Rules ("HAR") §§ 6-61-41, 6-61-55 and 6-61-57. No hearing on this Motion is requested.

I. INTRODUCTION.

Paniolo Power promotes community-level, regional-scale, and Hawaii Island-wide clean energy solutions to address high energy costs and seek reasonably-priced clean energy for the Waimea and Kohala communities. In the pursuit of this objective, Paniolo Power and its affiliates have invested significant time and funds in the development of resource portfolio plans, strategies for the implementation of such plans, and other valuable intellectual property. Because this proceeding will likely affect Paniolo Power's ability to apply these plans and advance its interest in realizing transformational change, Paniolo Power has a substantial and specific interest in the proceeding, which differs from that of other parties and the general public and cannot be

protected by other means. Accordingly, Paniolo Power's participation in this Docket will not broaden the issues, but will aid the development of a sound record.

II. PROCEDURAL AND FACTUAL BACKGROUND.

A. The Merger.

This Docket was opened upon the filing by NextEra Energy, Inc. ("NextEra"), Hawaiian Electric Company, Inc. ("HECO"), Maui Electric Company, Limited ("MECO"), and Hawaii Electric Light Company, Inc. ("HELCO")¹ of their Application for approval of the proposed merger ("Merger") of a NextEra subsidiary and Hawaiian Electric Industries, Inc. ("HEI").²

HEI owns and controls (directly or indirectly) the HECO Companies, which have been supplying electricity to Hawaii for over 100 years.³ NextEra is headquartered in Florida and is the owner of (1) Florida Power & Light Company, a large Florida public utility, and (2) NextEra Energy Resources, LLC, a large nationwide developer of independent renewable energy electricity and gas projects.⁴

As a result of the Merger, HEI will cease to exist as an independent entity, outstanding HEI stock will be exchanged for NextEra stock, and NextEra will become the indirect owner of the HECO Companies.⁵ NextEra and the HECO Companies seek the Commission's approval of this transaction pursuant to HRS §§ 269-7, 269-17.5, and/or 269-19, as well as pursuant to several prior relevant Commission orders.⁶

¹ HECO is the sole owner of MECO and HELCO. HECO, MECO, and HELCO are collectively referred to herein as the "HECO Companies". NextEra and the HECO Companies are collectively referred to herein as the "Applicants".

² The Application was filed on January 29, 2015, in the Docket.

³ Application at 3.

⁴ Application at 3-4.

⁵ Application at Exhibit 2, page 1-5.

⁶ Application at 1, 14.

B. Parker Ranch, Paniolo Power, and the Paniolo Power Plan.

1. Parker Ranch.

Parker Ranch is one of the largest and oldest cattle ranches in the United States. The Parker Ranch Foundation Trust ("PRFT") is also one of the largest private landowners in the State of Hawaii with over 130,000 acres under management, and elevation change across those lands of over 7,000 feet. As a result of Parker Ranch's significant economic, cultural, environmental and social relationships and interests on the Island of Hawaii and in North Kohala in particular, Parker Ranch has a deep concern with the fact that HELCO has the highest rates of any of the HECO Companies – despite the availability of the Island of Hawaii's abundant renewable resources to substantially lower rates.

2. A Plan to Transform the Big Island Energy Landscape over the next 10 years.

In September 2013, Parker Ranch began a comprehensive analysis of its resources with a consortium of world-class partners including Siemens Industries, Inc. ("Siemens"), Booz, Allen, Hamilton Inc. ("Booz Allen") and Pace Global. The efforts were focused on Parker Ranch's overarching goal of developing a compelling, competitive plan to transform the Island of Hawaii's energy landscape over the next 10 years. This plan in its successive phases is referred to as the "Paniolo Power Plan"

3. Paniolo Power.

Paniolo Power, a wholly-owned subsidiary of Parker Ranch, Inc., was established in April 2014 to promote and pursue community-level, regional-scale and island-wide clean energy solutions to address high energy costs and seek reasonably-priced clean energy for the Waimea and Kohala communities.

Parker Ranch's land includes significant wind and solar energy resource areas and large elevation differences that could be used for pumped storage hydroelectric generation. Parker Ranch formed Paniolo Power with an eye towards the critical nexus between energy costs, agricultural competitiveness, and sustainability on the Island of Hawaii. High electricity costs negatively impact the productivity of agricultural resources, increase the cost of living, reduce the amount of disposable income which stays in Hawaii, and decrease the economic competitiveness of Parker Ranch and the communities in which it operates. As a large landowner, the interrelated consequences of high energy costs negatively affect Parker Ranch in a number of important ways.

Parker Ranch has therefore charged Paniolo Power with:

- Unlocking the value of Parker Ranch's renewable energy resources;
- Promoting community-level, regional-scale, and island-wide clean energy solutions to address the high energy costs paid by community members, many of whom are unable to install residential-scale solar equipment; and
- Promoting the broader adoption of such solutions by serving as a world-class case study in sustainability and cutting edge energy technologies and ideas.

4. The Paniolo Power Plan.

In 2013, Siemens and Booz Allen were engaged to study solutions to address rising electricity rates and the corresponding economic impacts to the operations of Parker Ranch and nearby communities and other businesses. This team has produced an integrated resource plan that focused on Parker Ranch's energy needs and those of the surrounding communities in Waimea and North Kohala, both located in the northwest region of the Island of Hawaii. The goal of this plan is to reduce electricity rates by maximizing and optimizing the use of low-cost renewable resources. The

rationale for developing alternative plans was to explore ways to reduce rates in the shortest time frame possible, and without consideration for potential interisland cable planning scenarios.

Siemens' research for the Paniolo Power Plan revealed that resource portfolios centered on wind and pumped storage hydroelectric may achieve better results than HELCO's Power Supply Improvement Plan ("PSIP") in terms of lowering rates, mitigating execution risk, increasing renewable penetration standards, and reducing CO₂ emissions. Pumped storage hydroelectric is a proven technology that can store energy during periods of strong wind or solar radiation, and release it during periods of lower wind or solar radiation. It can also provide valuable ancillary services such as the inertia, regulation, spinning reserve, and voltage support necessary to stabilize the grid. As a result, pumped storage hydroelectric can allow existing firm capacity such as biomass and geothermal to achieve higher capacity factors and be utilized more efficiently. When combined with additional wind capacity, these advantages allow plans that include pumped storage hydroelectric to outperform the HELCO PSIP plans.

Based on its Paniolo Power Plan research, Paniolo Power believes that rates on the Island of Hawaii can and should be lower than all of the other islands. Moreover, since the opportunity to reduce rates is larger on the Island of Hawaii than on the other islands and the steps necessary to achieve such rate reduction are better understood for the Island of Hawaii than for any of the other islands, the Island of Hawaii should be a primary focus of the HECO Companies' and Commission's efforts to replace inefficient utility generation portfolios. The Island of Hawaii should not have to wait for decisions regarding other islands' resource portfolios – it is ready for transformative change now. Examples of immediate transformative change possible on the Island of Hawaii include

the regional and community microgrid solutions developed by Paniolo Power and the Siemens and Booz Allen team. Paniolo Power stands ready to act on its plans and concepts to achieve and accelerate transformative change in alignment with the PUC's vision and inclinations for new business models and solutions for the future of Hawaii's Electric Utilities.

5. Implementation of the Paniolo Power Plan.

The Paniolo Power Plan, among other things, indicated that Parker Ranch has a range of energy generation and grid portfolio options that could lower the cost of electricity to Parker Ranch, the surrounding communities of Waimea and North Kohala, and the entire Island of Hawaii. Paniolo Power intends to develop or cause to be developed certain of these energy generation resources and grid portfolio options for the benefit of Parker Ranch, the surrounding communities of Waimea and North Kohala, and the Island of Hawaii. Paniolo Power is currently in active negotiations with potential partners in these efforts. Additionally, Paniolo Power has issued a request for qualifications from engineering, procurement and construction providers for a pumped storage hydroelectric system on Parker Ranch lands, ranging from 10MW to 200MW in capacity.

III. ARGUMENT.

HAR § 6-61-55 provides that the Commission may allow intervention if the person seeking intervention files a motion stating the facts and reasons for the proposed intervention and making reference to the following:

- (1) The nature of the applicant's statutory or other right to participate in the hearing;
- (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;

- (3) The effect of the pending order as to the applicant's interest;
- (4) The other means available whereby the applicant's interest may be protected;
- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record;
- (7) The extent to which the applicant's participation will broaden the issues or delay the proceeding;
- (8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and
- (9) Whether the applicant's position is in support of or in opposition to the relief sought.

In this case, a review of each of these considerations suggests that the Commission should grant the Motion and allow Paniolo Power to intervene in the Docket.

A. The Nature of Paniolo Power's Statutory or Other Right to Participate in These Proceedings.

Paniolo Power does not have a statutory right to participate in the Docket, but the factors discussed below suggest that the Commission should grant intervention under HAR § 6-61-55.

B. The Nature and Extent of Paniolo Power's Property, Financial, and Other Interests in the Pending Matter.

Paniolo Power's interests include the following:

1. Paniolo Power's parent, Parker Ranch Inc., is a large consumer of electricity. Additionally, Paniolo Power and Parker Ranch have significant economic, cultural, environmental and social relationships and interests on the Island of Hawaii and in the communities of Waimea and North Kohala, in particular. There is a nexus

between electricity costs and these communities' economic competitiveness, agricultural productivity, and sustainability potential. There is also an interdependence between the sustainability of the communities and the sustainability of Parker Ranch. Paniolo Power is therefore interested in reducing electricity prices and increasing renewable penetration on a community-level, regional-level, and/or island-wide level.

2. In order to achieve these objectives, Paniolo Power and Parker Ranch, with their consultants, have invested time and resources in producing the Paniolo Power Plan. Paniolo Power has an interest in this investment.

3. The Paniolo Power Plan, among other things, indicates that Parker Ranch has a range of competitive energy generation and grid portfolio options. Paniolo Power is interested in developing or causing these options to be developed.

4. In connection with the above interests, Paniolo Power has an interest in the fitness, willingness, and ability of HELCO to continue to perform its utility functions after the Merger. Implementation of the Paniolo Power Plan could involve entering into contracts with HELCO, purchasing generation resources from HELCO, or a number of other potential transactions or relationships.

5. Also in connection with the above interests, Paniolo Power has an interest in the definition and elaboration of a regulatory and business environment that is conducive to the transformative change Paniolo Power believes is necessary.

Together, the economic size of these interests is significant.

C. The Effect of the Proceeding as to Paniolo Power's Interests.

Paniolo Power's interests are likely to be affected by three (3) related but distinguishable sets of issues which will be discussed and decided in this Docket: (1) issues related to the fitness, willingness, and ability of the post-Merger utilities; (2)

issues related to the Applicants' resource planning; and (3) issues related to competition, industry structure, and regulatory frameworks.

1. **Paniolo Power's Interests May Be Affected by Discussion and Decisions Regarding the Planning Competence and Capabilities of the Post-Merger Utilities.**

This proceeding will determine whether the Merger is in the public interest, and whether the post-Merger HECO Companies will be fit, willing, and able to serve as public utilities. The HECO Companies resource planning competence and capabilities are an important component of its fitness and ability to serve as a public utility. HECO's 2013 IRP results, rejected by the PUC, were shown to be suboptimal with the filing of the PSIPs. The Paniolo Power Plan shows that there is potential to further lower rates compared to the PSIPs with accelerated transitions to renewable energy generation. These results call into question the planning competence and capabilities of the utilities, as well as how the Merger will affect this competence and capabilities. NextEra does not appear to possess any prior experience or have demonstrated expertise in operating in a remote island environment, where unique considerations for resilience, reliability, safety, and optimal integration of renewable energy come into play. If the Merger results in a utility that does not possess the planning competence and capabilities to work with Paniolo Power and other stakeholders in the elaboration of rate-reducing resource plans in an "islanded" setting, Paniolo Power's interests in the Paniolo Power Plan and the development of Parker Ranch's energy resources could be damaged. Accordingly, the decisions to be made in this Docket regarding the effect of the Merger on the HECO Companies will directly affect Paniolo Power's interests.

2. Paniolo Power's Interests May Be Affected By Discussion and Decisions Regarding Resource Plans in this Docket.

As described above, Paniolo Power has an interest in implementing the resource plans that form part of the Paniolo Power Plan. This interest will be affected by any discussion and decisions regarding HELCO's resource planning efforts in this Docket.

While the Application appears to invite the Commission to approve the Merger without addressing these resource planning issues, Paniolo Power respectfully submits that this is not possible, for two reasons. First, the HECO Companies' resource plans are an important part of the Applicants' justification of the Merger. In the Application, the Applicants argue that among the reasons that the Merger should be approved are a number of commitments that NextEra offers to make to the Commission and Hawaii in general. One of the most important commitments is a commitment to:

strengthening and accelerating the Hawaiian Electric Companies' clean energy transformation . . . through increased renewable energy (including integrating more rooftop solar energy), electric grid modernization, energy storage and customer demand response programs, all as a key part of the efforts to reduce Hawaii's dependence on imported oil and to lower customer bills.⁷

This commitment references the PSIPs filed by the HECO Companies with the Commission in mid-2014.⁸ The commitment does not specifically describe the ways in which NextEra's efforts to "strengthen[] and accelerat[e]" this clean energy transformation will deviate from PSIPs, but it is known that NextEra's resource

⁷ Application at 42. See also Application at 5 (Arguing that the Merger should be approved because "[t]he NextEra Energy organization possesses the technical, managerial, and financial resources to . . . [s]trengthen and accelerate the Hawaiian Electric Companies' clean energy plans and transformation"); Application at 12 (Arguing that the Merger should be approved because "NextEra Energy commits to strengthening and accelerating the Hawaiian Electric Companies' clean energy transformation . . . towards a more affordable, equitable and inclusive, and economic clean energy future, through increased renewable energy (including integrating more rooftop solar energy), electric grid modernization, energy storage and customer demand response programs, all as a key part of the efforts to reduce Hawaii's dependence on imported oil and to lower customer bills.").

⁸ *Id.* at n. 56. The PSIPs were filed by each utility on August 26, 2014, in Docket No. 2014-0183.

preferences differ markedly from the HECO Companies' preferences. For example, a NextEra affiliate has asserted that economic analyses show that Oahu-Maui interisland undersea cable infrastructure which the NextEra affiliate refers to as "NextGrid Hawaii" is in the public interest, and that the Commission should immediately take steps towards facilitating the development of such cables.⁹ By contrast, the HECO Companies have asserted that their own analyses show that a system such as NextGrid Hawaii would not be in the public interest.¹⁰ Similarly, NextEra's affiliate has asserted that it would benefit Hawaii to the develop of up to 200 MW of additional wind or solar capacity on Maui¹¹, and publicly available information reveals that a NextEra affiliate is pursuing the development of a wind facility at a site in Kahikinui, Maui¹² with a potential wind resource of over 120 MW¹³. By contrast, MECO's "Preferred Plan" would allow only an additional 10 MW of wind and 8 MW of utility-scale solar on Maui through 2030.¹⁴

Second, even if improvements to the HECO Companies resource plans were not part of the Applicants' argument in favor of the Merger, it would still be necessary for the Commission to review resource plan issues in this Docket. Given that the HECO

⁹ NextEra Energy Hawaii, LLC's Motion to Intervene, filed August 25, 2014, in Docket No. 2014-0183 (stating that NextEra has an interest in the HECO Companies PSIPs because "[NextEra] has devoted substantial efforts to exploring and examining competitive solutions for undersea cable systems and other energy resources capable of dramatically advancing Hawaii's clean energy future. NextEra's efforts have included development of a grid-tie undersea cable system to interconnect Oahu and Maui, and ultimately potentially Hawaii Island, which it refers to as 'NextGrid Hawaii.' NextEra formed NextEra Energy Hawaii, LLC to further this initiative."); NextEra Energy Hawaii, LLC's Reply Comments, filed October 9, 2013, in Docket No. 2013-0169 (advocating the immediate initiation of a Commission-led RFP to select a interisland cable developer, which NextEra Energy Hawaii, LLC would participate in).

¹⁰ MECO's PSIP, filed August 26, 2014, in Docket No. 2014-0183, at 3-12.

¹¹ NextEra Energy Hawaii, LLC's Initial Public Comments, filed September 9, 2013, in Docket No. 2013-0169, at 17 (showing that the net social benefit of plans including such wind and solar capacity exceed the benefit of the base case or the cable only case).

¹² Request for Non-Homesteading Land Use Purposes filed by NextEra Energy Resources, LLC with the State of Hawaii Department of Hawaiian Home Lands, attached hereto as Exhibit "1" (showing that NextEra Energy Resources, LLC wishes to "[b]uild, own and operate [a] renewable energy project" in Kahikinui, Maui).

¹³ Public Comment, filed January 28, 2014, in Docket No. 2013-0169, at 25, 27.

¹⁴ MECO's PSIP, filed August, 26 2014, in Docket No. 2014-0183, at ES-6, ES-7.

Companies' resource plans are currently under active review by the Commission, it is not possible to determine whether the Merger will be in the public interest without examining how the Merger will affect the resource plans. In particular, it would not be in the public interest to approve a Merger that would bring the HECO Companies under the control of NextEra if NextEra's resource planning preferences are not in accord with the requirements and inclinations articulated by the Commission. Doing so would result in further delay and the imposition of further expenses on regulators as well as on the numerous parties with an interest in HELCO's resource plans.

Because resource plan issues must be addressed in this Docket in order to evaluate the Application and the Merger, this Docket will affect Paniolo Power's above-described interests in lowering electricity rates via implementation of the Paniolo Power Plan.

3. **Paniolo Power's Interests May Be Affected By Discussion and Decisions Regarding Issues of Competition, Industry Structure, and Regulation.**

As described above, Paniolo Power also has an interest in the elaboration of regulatory and business frameworks that remove the barriers to transformative change in Hawaii's electricity sector. This interest will be affected by discussion and decisions in this Docket regarding the Merger's impact on competition and industry structure, as well as any regulatory frameworks needed to remedy or avoid any such impacts.

Again, the Application suggests that the Applicants may believe the Merger can be approved without discussion of these issues,¹⁵ but Paniolo Power respectfully disagrees. Issues of competition, industry structure, and regulation are emphatically implicated by the Application and the circumstances of the Merger. An unregulated NextEra subsidiary recently negotiated a power purchase agreement for a utility-scale photovoltaic facility with HECO.¹⁶ Similarly, NextEra subsidiaries have an interest in the development of other independent power production facilities in Hawaii, as well as in the development of interisland transmission capacity by an independent public utility.¹⁷ In the Application, the Applicants assert that one of the advantages of its ownership of the HECO Companies is that, in part due to its ownership of independent power producer subsidiaries, NextEra is "North America's largest generator of renewable energy," and that its "long term business objective is to be the nation's leading clean energy company."¹⁸ The Applicants state that the Merger will allow the HECO Companies to benefit from this experience and expertise by integrating HECO into the "NextEra Energy family of companies," which includes both NextEra's public utility and independent power production subsidiaries.¹⁹

¹⁵ While the Application lists of a number of commitments the Applicants are willing to make to the Commission, the commitments do not address these questions. In fact, the Application seeks the repeal of the Commission's adoption of the "Thomas Report," which recommends mechanisms intended to address the risk of conflicts of interest between public utilities and other entities owned by the same parent corporation. This would appear to remove the mechanisms that are already in place for addressing questions related to inter-company conflicts of interest. Application at 14 n. 19. The application cites to the Commission's Order No. 12155, issued on January 26, 1993, in Docket No 7591. That Order adopted the Thomas Report, filed in the same docket on February 13, 1995.

¹⁶ The power purchase agreement has been submitted to the Commission for approval in Docket No. 2014-0308.

¹⁷ Request for Non-Homesteading Land Use Purposes filed by NextEra Energy Resources, LLC with the State of Hawaii Department of Hawaiian Home Lands, attached hereto as Exhibit "1" (showing that NextEra Energy Resources, LLC wishes to "[b]uild, own and operate [a] renewable energy project" in Kahikinui, Maui); note 9 and 11, *supra*.

¹⁸ Application at 5, 40.

¹⁹ Application at 8.

NextEra's existing participation in the Hawaii independent power production market and its aspirations to continue to be a nationwide market leader in that sector raise a number of questions: Will NextEra subsidiaries continue to develop "independent" power production facilities in Hawaii? What mechanisms if any should be adopted to ensure that any transactions between a Hawaii utility and a sister project development entity are conducted at arms' length? Is there a danger that the Merger (or any conditions imposed on NextEra in connection with the Merger) will limit the competitiveness of Hawaii's wholesale generation market? Is there a danger that NextEra may be able to operate the HECO Companies in a way that increases the value of other NextEra affiliates at the expense of Hawaii ratepayers? Will the Merger exacerbate or mitigate the potential and real conflict of interest problems associated with vertical integration, such as the conflict of interest inherent between a utility's ownership of generation and the selection of the most beneficial resource portfolio?

It is concerning that the HECO plans, as well as the Applicants' justification for the Merger²⁰, appear to emphasize solutions related to liquefied natural gas ("LNG") over renewable energy, when it should be the goal to prioritize and optimize the abundant, indigenous renewable energy resources available in Hawaii over all other possible generation sources. This prioritization of renewables implicates questions, within the purview of the Commission and its inclinations for regulating the utilities in the future, of what will be in the economic and environmental best interest of the rate-payer

²⁰ Form S-4 filed by NextEra Energy Inc. with the United States Securities and Exchange Commission on January 8, 2015, attached hereto as Exhibit "2," at 36 (stating that the part of the value proposition of the proposed Merger is that "various [NextEra] subsidiaries are involved in the transportation, exploration and production of natural gas. . . [NextEra] has extensive natural gas experience, which the HEI board believes will help HEI's utility business to execute on plans to bring liquefied natural gas to Hawaii, which should help lower customer bills and reduce emissions.").

in the long-term, and what will enable Hawaii to realize its greatest capacities for economic and energy independence and sustainability for future generations. The apparent bias in the investment plans for LNG over renewable energy should be examined closely. The burden of investment in LNG would be felt by generations of ratepayers, magnified by continued economic exposure to fossil-fuel volatility and exporting significant amounts of capital out of Hawaii's economy.

Efforts to answer these questions in the Docket will inevitably affect Paniolo Power's efforts to implement the Paniolo Power Plan. As the Commission recently observed, the delay in transformative change in Hawaii's electricity sector may be related to challenges inherent in the regulated monopoly model, including the conflict of interest inherent in an industry in which a vertically integrated public utility is both the owner of generation and the gatekeeper for proposed new generation projects.²¹ Paniolo Power believes that in order to successfully implement a transformative plan such as the Paniolo Power Plan (or even a plan such as HELCO's PSIP) progress must be made on these conflict of interest problems. Accordingly, Paniolo Power's ability to advance its objectives will be affected by discussion and decisions regarding the effect of the Merger on competition and industry structure, and by any conditions or other regulatory frameworks implemented to address these effects.

²¹ Specifically, the Commission observed that: "Utility-owned generation creates inherent financial conflicts . . . It is difficult to ascertain whether project development delays, contractual disputes with independent developers or utility reluctance to quickly embrace change are predicated upon legitimate concerns and traditional utility business practices . . . The Commission will consider whether it is reasonable and in the public interest to preclude the HECO Companies, as a matter of regulatory and public policy, from ownership of new generation and incent accelerated retirement of old, inefficient fossil generation in order to further diminish inherent financial conflicts with utility ownership of generation."

D. Other Means Available By Which Paniolo Power's Interests May Be Protected.

Paniolo Power lacks any other means by which to protect its interests. This Docket is the only opportunity to provide input to the Commission's decisions regarding the effects of the Merger, including the fitness, willingness and ability of the post-Merger utilities, as well as the potential impacts on the viability of alternative resource plans, market competition, industrial structure, and regulatory frameworks. Accordingly, if Paniolo Power does not have the ability to add its perspective to this Docket, the feasibility of Paniolo Power's future plans may be significantly diminished. There is no other forum in which Paniolo Power could seek relief from such harm.

E. The Extent to Which Paniolo Power's Interests Will Not Be Represented by Existing Parties.

Paniolo Power's interests will not be represented by existing parties. Currently, the parties to this Docket are the Consumer Advocate and the HECO Companies. None of these parties is a large landowner focused on unlocking the value of its significant renewable resources – a task that requires a unique set of interactions and potential partnerships with the utilities. Moreover, none of the other parties' interests are tied to a community-focused mission like that of Paniolo Power and Parker Ranch Inc., and none are able to share the unique perspective of a rural agricultural area on the issues to be considered in this docket, such as the effects on the public interest of placing Hawaii utilities under the control of a large mainland company. Nor does any other party have the uniquely useful intellectual property Paniolo Power has developed regarding the electricity system and renewable energy resource options on the island of Hawaii.

F. The Extent to Which Paniolo Power's Participation Can Assist in the Development of a Sound Record.

Paniolo Power's participation can assist the Commission in the development of a sound record. Paniolo Power will use its intellectual property, experience, and analytical capacity to aid in the development of a sound record.

G. The Extent to Which Paniolo Power's Participation Will Broaden the Issues or Delay the Proceeding.

Paniolo Power's participation will not broaden the issues or delay the proceeding. To the contrary, Paniolo Power plans to focus its participation on issues in which it has a significant interest or regarding which it has expertise that could aid the Commission.

H. The Extent to Which Paniolo Power's Interests in the Proceeding Differs from that of the General Public.

Paniolo Power's interests in this Docket differ from that of the general public. The general public is interested in this Docket as ratepayers and as citizens with an interest in issues such as affordability, preservation of natural resources, sustainability, energy independence, and fairness. Paniolo Power is interested in this Docket as a potential promoter or developer of utility-scale, community-scale, or regional-scale renewable energy solutions, a landowner upon whose lands such solutions may be developed, as well as a responsible member of this community. Therefore, Paniolo Power's interests and perspective differ from that general public.

I. **Whether Paniolo Power's Position is in Support of or in Opposition to the Merger.**

Paniolo Power is not yet ready to take a position on the Merger. Paniolo Power has questions about the Merger, and anticipates taking a position on the Merger when those questions are answered.


Paniolo Power seeks to intervene in order to protect its interests in such change, and to thereby help the Commission ensure that the Merger constitutes a step forward for Hawaii's electricity sector.

IV. **CONCLUSION.**

For the reasons set forth herein, Paniolo Power respectfully submits that it meets the qualifications, as set forth under HAR § 6-61-55, to intervene and become a party to these proceedings. Paniolo Power respectfully requests that the Commission enter an order granting its Motion.

[Signature on Next Page]

DATED this 18th day of February, 2015.



DEAN T. YAMAMOTO
CARLITO P. CALIBOSO
WIL K. YAMAMOTO
TYLER P. MCNISH

Attorneys for PANIOLO POWER
COMPANY, LLC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	
HAWAIIAN ELECTRIC COMPANY, INC.,)	Docket No. 2015-0022
HAWAII ELECTRIC LIGHT COMPANY,)	
INC., MAUI ELECTRIC COMPANY,)	
LIMITED, and NEXTERA ENERGY, INC.)	
)	
For Approval of the Proposed Change of)	
<u>Control and Related Matters.</u>)	

AFFIDAVIT OF JOSE S. DIZON

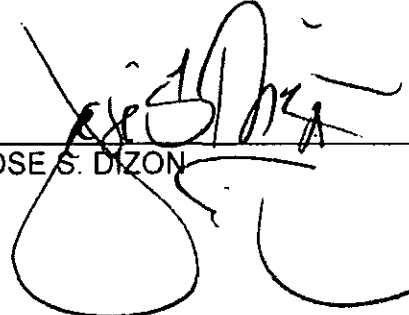
JOSE S. DIZON, being first duly sworn on oath, deposes and says:

1. I am the General Manager of Paniolo Power Company, LLC ("Paniolo Power") and an employee of Parker Ranch, Inc. ("Parker Ranch"). I am familiar with all aspects of the operations of Paniolo Power, as well as with Parker Ranch's history, geography, and energy sector objectives.

2. I make this declaration based on my personal knowledge and am competent to attest to the matters discussed herein.

3. I have reviewed Paniolo Power's Motion to Intervene filed in this docket on concurrently herewith, and I hereby declare that the factual statements and representations made therein with respect to Paniolo Power and Parker Ranch are true and accurate based on my present knowledge, information and belief.


FURTHER AFFIANT SAYETH NAUGHT.



JOSE S. DIZON

I the undersigned notary public commissioned in the State of Hawaii, hereby certify as follows:

This 2 page AFFIDAVIT OF JOSE S. DIZON, dated undated, was subscribed and sworn to before me on February 18, 2015, in the Third Circuit, State of Hawaii.



Signature of Notary

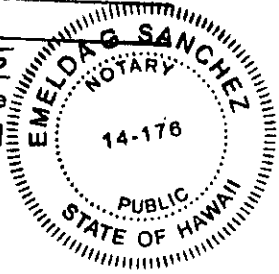


Emelda G. Sanchez

Print Name of Notary

Notary Public, State of Hawaii
My Commission expires: May 25, 2018

Doc. Date: undated # Pages: 2
Notary Name: Emelda G. Sanchez Third Circuit
Doc. Description: Affidavit of Jose J. Dizon
UG 2/18/15
Notary Signature Date
NOTARY CERTIFICATION



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

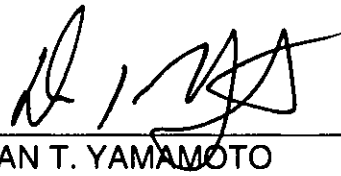
In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC.,) Docket No. 2015-0022
HAWAII ELECTRIC LIGHT COMPANY,)
INC., MAUI ELECTRIC COMPANY,)
LIMITED, and NEXTERA ENERGY, INC.)
)
For Approval of the Proposed Change of)
Control and Related Matters.)

DECLARATION OF DEAN T. YAMAMOTO

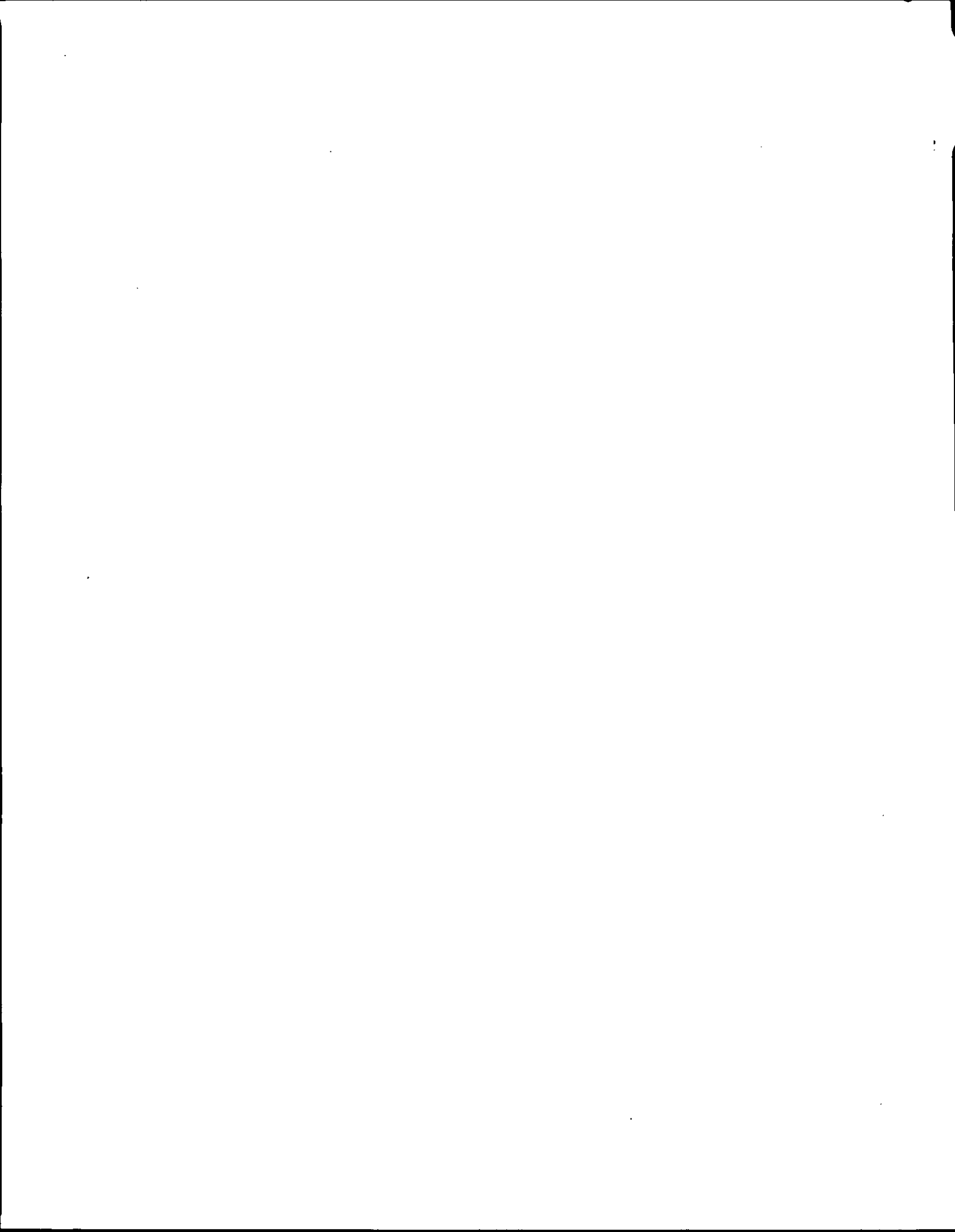
I, DEAN T. YAMAMOTO, declare as follows:

1. I am an attorney with Yamamoto Caliboso, counsel in this matter for Paniolo Power Company, LLC ("Paniolo Power").
2. I make this Declaration based on my personal knowledge and in support of Paniolo Power's Motion to Intervene in this Docket.
3. Attached hereto as Exhibit "1" is a true and correct copy of a Request for Non-Homesteading Land Use Purposes filed by NextEra Energy Resources, LLC with the State of Hawaii Department of Hawaiian Home Lands, which I downloaded from the State of Hawaii Department of Hawaiian Home Lands website on February 17, 2015.
4. Attached hereto as Exhibit "2" is a true and correct copy of selected pages from a Form S-4 filed by NextEra Energy Inc. with the United States Securities and Exchange Commission on January 8, 2015, which I downloaded from the Securities and Exchange Commission's website on February 17, 2015.

DATED: this 18th day of February, 2015



DEAN T. YAMAMOTO



NEQ. ABERCROMBIE
GOVERNOR
STATE OF HAWAII



JOSE M. K. MASAGATANI
CHAIRMAN DESIGNATE
HAWAIIAN HOMES COMMISSION
MICHELLE K. KAHANE
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P. O. BOX 1179
HONOLULU, HAWAII 96846

REQUEST FORM FOR NON-HOMESTEADING LAND USE PURPOSES

PART I: APPLICANT INFORMATION

Name: _____

Address: _____

Phone No.: _____ Cell: _____ email: _____

If Corporation/Organization/Company/LLC/Non-Profit:

Name: NextEra Energy Resources, LLC

Address: 700 Universe Blvd, Juno Beach, FL 33408

Phone No.: 561.304.5258 Cell: 443.254.8333 email: Edwin.Moses@NEE.com

Requesting Organization is a Non-Profit

- Type of Non-Profit:
- Private Nonprofit – governed by self appointed board
 - Member Nonprofit – governed by voting members
 - Homestead Organization – governed by HHCA beneficiary members

Requesting Organization is For Profit - Individual or Business

- Individual
- Sole Proprietorship
- Partnership
- Corporation
- Limited Liability Corporation
- Other

Is an Individual HHCA Beneficiary or is Owned by an HHCA Beneficiary Yes No

Requesting Organization is a Government Agency

- Federal
- State
- County

Officers and/or Principal Representatives: Michael O'Sullivan, Senior Vice President,
Edwin C. Moses, Executive Director

Mission of Organization: Build, own and operate renewable energy project for the long-term benefit of our shareholder's and community stakeholders

Date Incorporated: 9/9/1999 State of Incorporation: Delaware

Federal Tax ID#: 65-0947582 State Tax ID#: _____

PART 2: NON-HOMESTEADING LAND USE REQUEST

Describe proposed non-homesteading land use envisioned under this request as submitted _____
Kahikinui Wind Project

See NextEra project proposal for more detail

*Please attach additional information if necessary

Land Request Form No. 13: 053

Land Area requested: Acreage/Sq.Ft. ~500 Acres Term: 35 years

Island: Maui Tax Map Key No.: 2-9-001:003

Indicate Character of Use:

- Agricultural
- Commercial
- Church
- Other
- Pastoral
- Industrial
- Community Facility

Does applicant have any existing land disposition issued by Hawaiian home lands for non-homesteading use purposes? Yes No

If yes, under what type of use and disposition: DHHL will review operating project royalties, pre-operating annual lease fees, a PPA approval bonus payment. NextEra will work with local communities to provide sustainable community development, jobs and investment.

Describe how proposed land use request will have direct or significant indirect benefit to the Trust and/or its Beneficiaries (Applicants & Lessees):

The following authorized representative submits this request for use of Hawaiian home lands under non-homesteading purposes and acknowledges that:

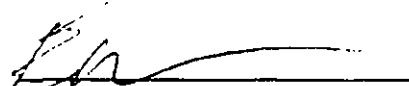
1. This is an application process that will be subject to further review, evaluation and consideration by DHHL and may require additional information to be submitted;
2. This request does not constitute any form of DHHL approval to this non-homesteading land use request as submitted;
3. In the best interest of the trust, DHHL reserves the right to exercise its prudent authority pursuant to and in accordance with the Hawaiian Homes Commission Act (Section III, Section 204(a)(2), Section 220.5, Section 207(c), Hawaii Revised Statutes, Chapter 171, as amended and the Hawaii Administrative Rules, Title 10;
4. Once the application is deemed complete, the non-homesteading land use request will be posted for a 30 day review period on the DHHL website for beneficiary and public comment;
5. Additional Island or Regional Specific Beneficiary Consultation will be required per the DHHL Beneficiary Consultation Policy;
6. All input/comments received will be provided to the Hawaiian Homes Commission if/when approval for disposition is considered by the HHC;
7. Associated non-refundable processing and documentation fees shall be assessed for each respective disposition request as follows:

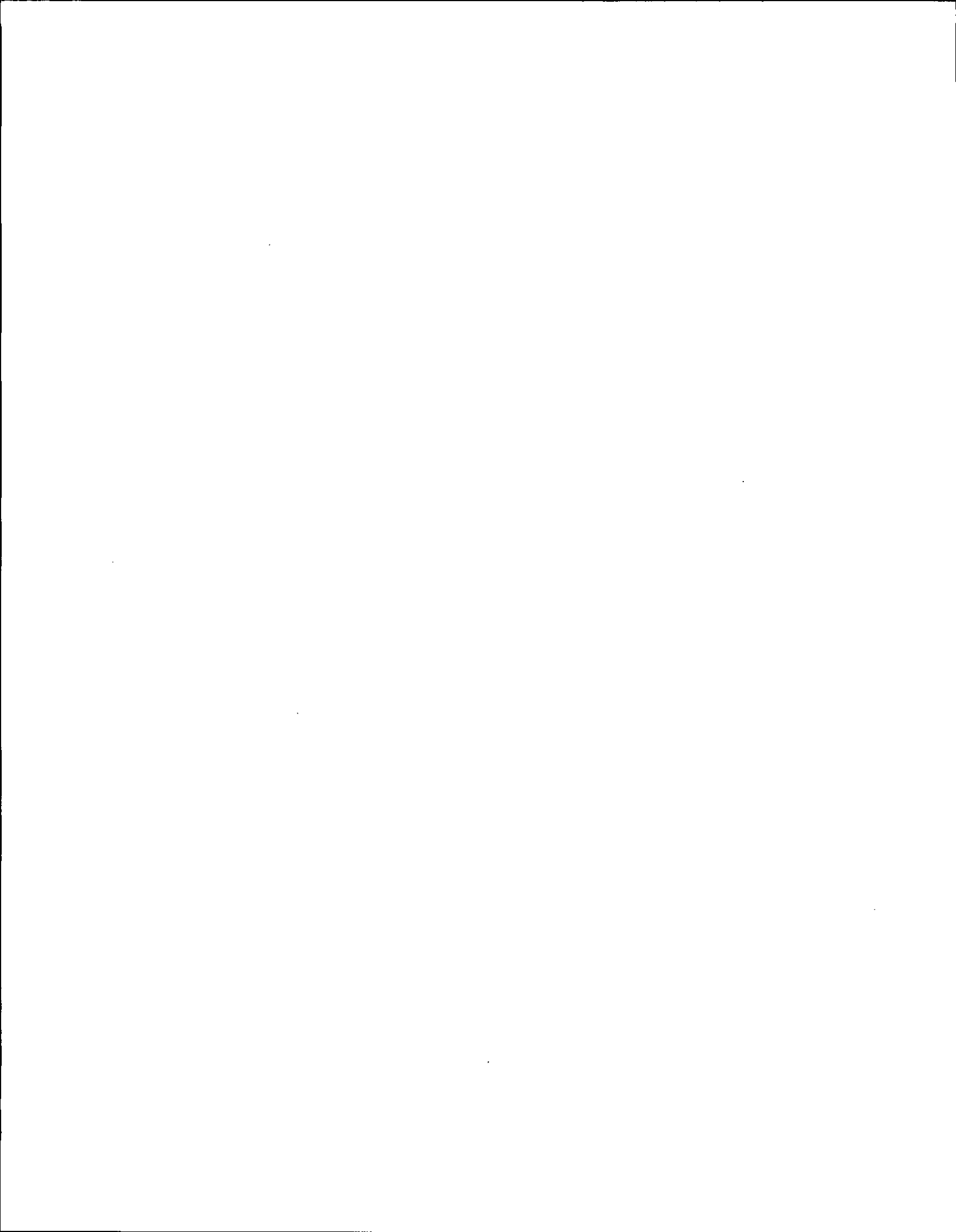
Revocable Permit - \$100.00	License - \$200.00	General Lease - Cost	Documentation (all)...\$75.00
-----------------------------	--------------------	----------------------	-------------------------------

NextEra energy Resources LLC
Print Individual or Organization Name

January 31, 2013
Date

Edwin Moses, Executive Director
Authorized Representative Name & Title


Signature



S-4 1 d846219ds4.htm FORM S-4

Table of Contents

As filed with the Securities and Exchange Commission on January 8, 2015

Registration No. 333-

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

NEXTERA ENERGY, INC.

(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction of
incorporation or organization)

4911
(Primary Standard Industrial
Classification Code Number)

59-2449419
(I.R.S. Employer
Identification Number)

**700 Universe Boulevard
Juno Beach, Florida 33408
(561) 694-4000**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Charles E. Sieving, Esq.
Executive Vice President & General Counsel
NextEra Energy, Inc.
700 Universe Boulevard
Juno Beach, Florida 33408
(516) 694-4000

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Edward D. Herlihy, Esq.
Lawrence S. Makow, Esq.
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
(212) 403-1000

Chester A. Richardson, Esq.
Hawaiian Electric Industries, Inc.
1001 Bishop Street, Suite 2900
Honolulu, Hawaii 96813
(808) 543-5662

Michael P. Rogan, Esq.
Marc S. Gerber, Esq.
Skadden, Arps, Slate, Meagher &
Flom LLP
1440 New York Avenue NW
Washington, DC 20005
(202) 371-7000

Approximate date of commencement of the proposed sale of the securities to the public: As soon as practicable after this registration statement becomes effective and upon completion of the merger described in the enclosed document.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

EXHIBIT 2
Page 1 of 3

Table of Contents

agreement and the merger with NEE were advisable and in the best interests of HEI's shareholders, adopted the merger agreement and recommended that HEI's shareholders approve the merger agreement.

Following the conclusion of the HEI board meeting, HEI and NEE entered into the merger agreement, and shortly thereafter, NEE and HEI issued a joint press release announcing their entry into the merger agreement.

HEI's Reasons for the Merger and Recommendation of HEI's Board of Directors

By unanimous vote, the HEI board, at a meeting held on December 3, 2014, determined that the merger agreement and the transactions contemplated thereby are advisable and in the best interests of HEI and its shareholders and approved and adopted the merger agreement and the transactions contemplated thereby, including the merger. **The HEI board recommends that HEI shareholders vote FOR the proposal to approve the merger agreement and the merger at the HEI special meeting and FOR the proposal to adjourn the HEI special meeting, if necessary or appropriate, to solicit additional proxies in favor of such approval.**

In reaching its determination to adopt the merger agreement and to recommend the approval of the merger agreement and the merger by HEI's shareholders, the HEI board consulted with management, as well as J.P. Morgan, HEI's financial advisor, and HEI's internal and outside legal counsel, and considered various material factors, which are discussed below.

Among the material information and factors considered by the HEI board were the following:

- *Strategic Considerations for HEI's Utility Business.* The HEI board considered a number of strategic factors with respect to its utility business, including the following:
 - *Acceleration of Clean Energy Growth Plans.* HEI's utility business is in the early stages of an aggressive multi-year growth plan based on increased investment in and reliance on clean, renewable energy. By combining with NEE, which supports these plans, HEI's utility business will become part of a company that has the largest wind and solar renewable portfolio in North America and one of the largest in the world. NEE's support, expertise and experience is expected to enable HEI's utility business to execute on these clean energy growth plans more quickly and efficiently than it could as a standalone company.
 - *Greater Financial Resources.* HEI's utility business will become part of a much larger company with a considerably stronger balance sheet, which should improve the credit rating of HEI's utility business, enhance its access to investment capital necessary to pursue its clean energy growth plans, and lower its cost of capital, which should help decrease the electric bills of the utility's customers over time.
 - *Operational Efficiency.* NEE is among the most efficient operators in the United States and has been able to offer its Florida utility customers leading levels of reliability. This focus on operating efficiency should help improve the operating efficiency of HEI's utility business for the benefit of customers.
 - *Track Record of Cost Reduction and Clean Energy Transformation.* The HEI board noted that NEE has a proven track record in Florida of reducing reliance on fuel oil (noting that NEE's power utility has reduced use of imported fuel oil by more than 99% since 2001) and delivering value to customers, including by lowering customer bills. In this regard, the HEI board noted that NEE utility customers pay rates that are 25% below the national average. The HEI board believes that NEE's experience in this area will enable HEI's utility business to continue its own initiatives to reduce use of fuel oil and to decrease the electric bills of its utility customers.
 - *Renewable Energy Experience and Expertise.* The HEI board considered that the merger should allow HEI's utility business to benefit from the substantial renewable energy experience and

Table of Contents

expertise of NEE, including solar and wind energy. NEE has the largest solar and wind energy portfolio in North America and one of the largest in the world. The HEI board expects that its utility business, and Hawaii generally, will benefit greatly from NEE's expertise in solar and wind, as it expects that this expertise would position HEI's utility business to implement its clean energy growth plans faster than it could as a standalone company.

- *Hawaii Experience.* The HEI board considered NEE's familiarity with the Hawaii regulatory environment, which it has gained through its ongoing development of proposed renewable and undersea cable projects in Hawaii. This experience positions the combined company favorably to effectively work with regulators in Hawaii to execute on the clean energy initiatives of HEI's utility business.
- *Natural Gas Experience.* The HEI board took into account that NEE's primary rate-regulated utility subsidiary, Florida Power & Light, is the largest utility consumer of natural gas in the United States and that various subsidiaries are involved in the transportation, exploration and production of natural gas. Accordingly, NEE has extensive natural gas experience, which the HEI board believes will help HEI's utility business to execute on plans to bring liquefied natural gas to Hawaii, which should help lower customer bills and reduce emissions.
- *Separation of American Savings Bank.* The HEI board considered a number of strategic factors with respect to HEI's bank business, which will become a separate publicly traded company as a result of the transactions contemplated by the merger agreement, including the following:
 - *Increased Business Clarity.* American Savings Bank has a strong independent business that is well capitalized and well managed, and as a standalone company will have better business clarity than it currently has as a subsidiary of a diversified holding company.
 - *Increased Strategic Opportunities.* As an independent company, American Savings Bank will also have the ability to pursue strategic opportunities that might not have been possible as part of a diversified holding company.
 - *Additional Organic Growth Opportunities.* American Savings Bank will have increased ability to pursue organic growth opportunities, given that it will be less capital constrained as an independent company.
 - *Continuity of Bank Business.* American Savings Bank's transition to a standalone company is expected to be seamless for employees and customers, with the same products and services to be offered following the completion of its separation from HEI.
 - *Financial Flexibility.* As a standalone company, American Savings Bank will, subject to applicable regulation, have increased financial flexibility, including the flexibility to grow its balance sheet, to be more aggressive with respect to loan growth and to return capital to shareholders via dividends or share repurchases.
 - *Exemption from Durbin Limits on Interchange Fees.* As a separate company, American Savings Bank will benefit from regaining its exemption from regulatory limits on the collection of interchange fees that were established pursuant to the "Durbin Amendment" provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (we refer to the bank's regaining of this exemption as the Durbin recapture). American Savings Bank became ineligible for the small issuer exemption to the fee caps beginning in 2013 due to HEI's size on a consolidated basis. As an independent company, American Savings Bank expects to realize higher year-over-year fee income due to regaining its exemption from such fee caps. American Savings Bank realized approximately \$0.06 per HEI share in higher interchange fees in the twelve months ended June 30, 2013, the last twelve month period during which American Savings Bank had the benefit of the small issuer exemption.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
)	
HAWAIIAN ELECTRIC COMPANY, INC.,)	Docket No. 2015-0022
HAWAII ELECTRIC LIGHT COMPANY,)	
INC., MAUI ELECTRIC COMPANY,)	
LIMITED, and NEXTERA ENERGY, INC.)	
)	
For Approval of the Proposed Change of)	
<u>Control and Related Matters.</u>)	

CERTIFICATE OF SERVICE

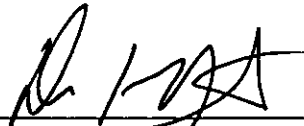
I hereby certify that I have on this date served copies of the foregoing Motion to Intervene upon the following parties, by causing copies hereof to be hand delivered or mailed, postage prepaid, and properly addressed to each as follows:

HAWAIIAN ELECTRIC COMPANY, INC. HAWAII ELECTRIC LIGHT COMPANY, INC. MAUI ELECTRIC COMPANY, LIMITED P.O. Box 2750 Honolulu, Hawaii 96840	1 copy via U.S. mail
---	----------------------

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS DIVISION OF CONSUMER ADVOCACY 335 Merchant Street, Room 326 Honolulu, Hawaii 96813	2 copies via hand delivery
--	----------------------------

NEXTERA ENERGY, INC. 841 Bishop Street, Suite 400 Honolulu, Hawaii 96813	1 copy via U.S. mail
--	----------------------

DATED: this 18th day of February, 2015

A handwritten signature in black ink, appearing to be a stylized name, positioned above a horizontal line.

DEAN T. YAMAMOTO
CARLITO P. CALIBOSO
WIL K. YAMAMOTO
TYLER P. MCNISH

Attorneys for PANIOLO POWER
COMPANY, LLC