

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC.,)
HAWAII ELECTRIC LIGHT COMPANY, INC.,)
MAUI ELECTRIC COMPANY, LIMITED and)
)
KAUAI ISLAND UTILITY COOPERATIVE)
)
For Approval to Establish a Rule)
to Implement a Community-Based)
Renewable Energy Program and Tariff)
and Other Related Matters.)
_____)

DOCKET NO. 2015-0389

ORDER NO. 37879

APPROVING THE MARCH 30 CBRE FILINGS, WITH MODIFICATIONS

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APPROVING THE MARCH 30 CBRE FILINGS, WITH MODIFICATIONS

By this Order, the Public Utilities Commission ("Commission"): (1) approves the Community-Based Renewable Energy ("CBRE") filings, including the Requests for Proposals ("RFP") and associated Rule 29 tariffs, filed on March 30, 2021,¹ by HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., and MAUI ELECTRIC COMPANY, LIMITED (collectively "Hawaiian Electric" or "Companies"), subject to the modifications set forth in this Order; and (2) directs Hawaiian Electric to file

¹"The Hawaiian Electric Companies' Community Based Renewable Energy Phase 2 Tariff and Appendices, and RFPs and Model Contracts for LMI Subscribers, Tranche 1, Molokai and Lanai, Books 1-6," filed on March 30, 2021 ("March 30 CBRE Filings").

finalized RFPs, Rule 29 tariffs, and supporting documents, by August 25, 2021.²

I.

BACKGROUND AND RELEVANT PROCEDURAL HISTORY

On April 9, 2020, the Commission issued Order No. 37070 which, among other things, directed Hawaiian Electric to develop RFPs and tariffs for Phase 2 of the CBRE program.³

On January 29, 2021, the Commission issued Order No. 37592, which, among another things, identified five areas in the CBRE filings that required further consideration before the launch of Phase 2: (1) interconnection; (2) low and moderate income ("LMI") customer enrollment and verification;

²The Parties and Participants to this proceeding are: (1) Hawaiian Electric; (2) KAUAI ISLAND UTILITY COOPERATIVE; (3) the DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party; (4) the Intervenor the DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, and TOURISM; and the Participants, pursuant to Order No. 33751, at 100: (5) SUNPOWER CORPORATION; (6) HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"); (7) ULUPONO INITIATIVE, LLC ("Ulupono"); (8) BLUE PLANET FOUNDATION ("Blue Planet"); (9) HAWAII PV COALITION ("HPVC"); and (10) THE ALLIANCE FOR SOLAR CHOICE ("TASC").

³See Order No. 37070, "Commencing Phase 2 of the Community-Based Renewable Energy Program," filed on April 9, 2020 ("Order No. 37070"), at 34-44.

(3) general participation requirements; (4) grid services; and (5) the bid evaluation process.⁴

On March 30, 2021, Hawaiian Electric filed the latest version of its CBRE RFPs and tariffs.⁵

On April 14, 2021, the Consumer Advocate filed comments on the March 30 CBRE Filings.⁶

On April 14, 2021, Ulupono filed comments on the March 30 CBRE Filings.⁷

On April 14, 2021, Blue Planet, HPVC, HSEA, TASC, and Ulupono (collectively "Joint Parties") filed Joint Comments on the March 30 CBRE Filings.⁸

⁴See Order No. 37592, "(1) Developing Recommendations; (2) Addressing Phase 1 Contracts; and (3) Granting the Motion to Withdraw of Renewable Energy Action Coalition of Hawaii, Inc.," filed on January 29, 2021 ("Order No. 37592"), at 3.

⁵See March 30 CBRE Filings.

⁶"Division of Consumer Advocacy's Comments Regarding the Hawaiian Electric Companies' March 30, 2021 Recommendations and Updated CBRE Phase 2 Filings," filed on April 14, 2021 ("Consumer Advocate Comments").

⁷"Ulupono Initiative LLC Comments on HECO Companies' March 30, 2021 CBRE Filings," filed on April 14, 2021 ("Ulupono Comments").

⁸"Blue Planet Foundation, Hawaii PV Coalition, Hawaii Solar Energy Association, The Alliance for Solar Choice, and Ulupono Initiative LLC's Joint Comments on HECO Companies' March 30, 2021 CBRE Filings," filed on April 14, 2021 ("Joint Comments").

On May 5, 2021, Hawaiian Electric responded to comments on the March 30 CBRE Filings.⁹

On May 21, 2021, the Commission issued Order No. 37796, approving, with modifications, the Lanai RFP.¹⁰

On June 17, 2021, the Commission issued Order No. 37832, suspending the deadline for Hawaiian Electric to file the final Lanai RFP to promote consistency across Rule 29 tariffs.¹¹

On June 29, 2021, the Commission held a Status Conference to discuss Hawaiian Electric's RFPs for Molokai, including the Molokai Plan, filed on March 29, 2021, in Docket No. 2019-0178, and the CBRE program for Molokai filed in the instant docket, as well as stakeholders' comments in response to these filings. Later, on July 19, 2021, the Commission issued a letter giving Hawaiian Electric further guidance regarding how to proceed on Molokai.¹²

⁹Letter From: K. Shinsato To: Commission Re: "Docket No. 2015-0389 - Hawaiian Electric Companies' Response to Parties' Comments Regarding the March 30, 2021 Filing," filed on May 5, 2021 ("Hawaiian Electric Response").

¹⁰See Order No. 37796, "Approving the Revised Lanai RFP," filed on May 21, 2021 ("Order No. 37796"), at 20.

¹¹See Order No. 37832, "Amending the Procedural Schedule," filed on June 17, 2021 ("Order No. 37832"), at 1-2.

¹²See Letter From: Commission To: Service List for Docket No. 2019-0178 and Docket No. 2015-0389 Re: "Commission Guidance on Request for Proposals (RFPs) for Molokai in Docket

II.

COMMENTS

A.

Consumer Advocate

The Consumer Advocate's comments addressed:
(1) general participation requirements; (2) interconnection;
(3) LMI enrollment and verification; (4) grid services;
and (5) bid evaluation process.

General Participation Requirements. Generally, the Consumer Advocate commends Hawaiian Electric's effort to reduce the March 30 CBRE Filings from approximately 16,000 pages to approximately 2,500, making it "much less onerous for developers to review."¹³ Although the Consumer Advocate believes the RFP Navigation Guide and CBRE Tariff Process Flowchart will be valuable reference tools for developers, the Consumer Advocate "recommends that the Companies incorporate CBRE LMI projects into the flowchart or make an additional flowchart to highlight this element of the Phase 2 CBRE program."¹⁴ The Consumer Advocate also "appreciates the removal of the No Disconnection Notice

No. 2019-0178 and Docket No. 2015-0389," filed on May 5, 2021 ("Molokai Letter").

¹³Consumer Advocate Comments at 8.

¹⁴Consumer Advocate Comments at 8.

Requirement and the relaxed requirements for customer billing history, and believes that this will make it easier [for] customers to participate[.]”¹⁵

The Consumer Advocate believes that after a pre-determined period, where a CBRE project has been made available and available capacity remains, “it may be prudent to allow residential customers who have already subscribed to a CBRE project to subscribe to additional capacity in the same or a different CBRE facility.”¹⁶ The Consumer Advocate notes that it is “not recommending at this time” that the ability to subscribe to more than one project be entirely removed for existing and future projects, but believes that “if uptake on the CBRE projects is low, it may be reasonable to allow such an exception to help CBRE projects attain viability.”¹⁷

The Consumer Advocate notes that the CBRE Portal “appears to have the functionality to track the percentage of each subscriber’s energy usage . . . and has the backend functionality for [Subscriber Organizations (“SOs”)] to check on the total remaining [kilowatts (“kW”)] for each subscriber” and believes that “a provision allowing customers to crosscheck and notify the

¹⁵Consumer Advocate Comments at 9.

¹⁶Consumer Advocate Comments at 10.

¹⁷Consumer Advocate Comments at 10 (emphasis in original).

Companies and SOs of errors in subscription size based on past bills should be added.”¹⁸ The Consumer Advocate states that this would allow customers to “maximize their participation,” up to “100 percent of their total energy usage . . . particularly if a CBRE facility does not have enough unsubscribed capacity available to meet a customer’s energy usage needs.”¹⁹

Interconnection. The Consumer Advocate states that Hawaiian Electric used the Joint Parties’ recommendations to identify a list of “quick wins” and areas for continuous improvement.²⁰ The Consumer Advocate believes that if Hawaiian Electric will be responsible for more costs related to interconnection facilities, and will be able to pass those costs on to customers, then Hawaiian Electric should make an agreement with developers so that, “if the developer will not move forward with the project or if the project is indefinitely delayed, the site control will be transferred to the Companies so that the Companies can either retain another developer or the Companies can move forward with the project to mitigate the risk associated with the interconnection facilities not being used and useful.”²¹

¹⁸Consumer Advocate Comments at 10.

¹⁹Consumer Advocate Comments at 10.

²⁰See Consumer Advocate Comments at 12.

²¹Consumer Advocate Comments at 14.

The Consumer Advocate notes that "it is the customers who are now being held responsible for all of the risks - not [Hawaiian Electric] and not the developers" if Hawaiian Electric is "required and/or allowed to take on more responsibilities for the interconnection work and passes those costs onto the customers[.]"²²

The Consumer Advocate "offer[s] the same proposal that it has been making in various dockets . . . where there would be an effort to identify potential sites, engage in early community outreach regarding the potential development of renewable energy projects on those sites and, if supported by the community, the potential interconnection studies and facilities could be started as a possible pool of sites that developers could bid into to have the right to develop on those properties to expedite the development and reduce the risk for developers both in terms of community opposition and the risk with interconnection studies."²³

The Consumer Advocate "supports the recommendation that bidders be required to include details about available circuit capacity as part of their bid forms."²⁴

²²Consumer Advocate Comments at 15.

²³Consumer Advocate Comments at 15-16.

²⁴Consumer Advocate Comments at 18.

LMI Enrollment and Verification. The Consumer Advocate “supports the development of simple yet meaningful ways to verify LMI eligibility so as to reduce barriers to LMI participation” and “strongly supports the use of Hawaiian Electric’s expanded list of Federal and State social service programs as proxies for LMI eligibility and verification in addition to the use of the U.S. Housing and Urban Development (‘HUD’) guidelines for low-to-moderate income.”²⁵

The Consumer Advocate argues that using Hawaii Energy’s LMI zip codes to determine LMI eligibility “may be used as an initial filter but that actual LMI verification and enrollment should require either some form of income self-attestation or participation in existing social service programs and community organizations that serve and engage with LMI and/or [Asset Limited Income Constrained Employed (‘ALICE’)] individuals and households.”²⁶ The Consumer Advocate “does not believe that income verification for LMI subscribers should be entirely obviated from the CBRE Program.”²⁷ The Consumer Advocate states it has “grave concerns with relying on only a geographical filter . . . to define LMI consumers for the Phase 2 of the CBRE Program[,]” and that

²⁵Consumer Advocate Comments at 20.

²⁶Consumer Advocate Comments at 21.

²⁷Consumer Advocate Comments at 20.

"these zip codes were identified based on a composite score for all zip codes based on the following three variables, which were normalized and weighted: 1) median household income, 2) percent of families in poverty, and 3) percent of people in poverty."²⁸ The Consumer Advocate "urges the Commission to consider both the relative percentage of people receiving aid as well as the significant percentages of households in these zip codes that do not receive public assistance and would not qualify under [Federal Poverty Limit] standards."²⁹ The Consumer Advocate notes that "relying solely on the Hawaii Electric [sic] LMI zip codes to qualify customers as LMI would appear to allow SOs to solicit and enroll households whose incomes may well exceed [the] LMI guidelines to participate in CBRE LMI projects."³⁰ The Consumer Advocate recognizes that there are several community solar programs in the United States that utilize a geographic approach for LMI verification, but the geographic approaches are much more granular and "*still require potential subscribers to submit income documentation and/or a self-attestation form as part*

²⁸Consumer Advocate Comments at 21-22.

²⁹Consumer Advocate Comments at 25-26.

³⁰Consumer Advocate Comments at 26. The Commission believes that the Consumer Advocate intended to reference the Hawaii Energy LMI Zip Codes.

of the subscribers uptake process."³¹ The Consumer Advocate states that relying on zip codes, without any type of supplemental income verification, would "steer benefits away from potential subscribers who qualify for LMI status by allowing customers who exceed the income thresholds to occupy the reserved capacity on CBRE LMI projects."³² In addition, the Consumer Advocate notes that unintended consequences of geographic eligibility could put a "target on individuals and households in these areas who are already experiencing economic precarity and/or hardship to fraudulent activities and marketing practices" and that if implemented, "additional consumer protections should also be considered to minimize customers' exposure to fraudulent business practices or scams from unscrupulous entities or individuals."³³

The Consumer Advocate notes that Hawaiian Electric provided an expanded list of 20 Federal and Hawaii State programs serving LMI individuals or households, as well as Hawaii non-profit programs serving ALICE persons or households, and agrees that "utilizing these programs will reduce costs and administrative burdens that SOs may face as part of fulfilling the requirements outlined in Rule 29 for projects with

³¹Consumer Advocate Comments at 26 (emphasis in original).

³²Consumer Advocate Comments at 27.

³³Consumer Advocate Comments at 28-29.

a dedicated LMI subscriber component[,]” but recommends including Hawaiian Telcom’s Internet Kokua Program and Spectrum Internet Assist on its list of comparable programs.³⁴ Although Hawaiian Electric did not include these programs due to a preference for governmental programs with public transparency, the Consumer Advocate observes that “both programs currently utilize Federal and Hawaii State public assistance programs/subsidies” that Hawaiian Electric has on its proposed list of acceptable proxies.³⁵

The Consumer Advocate recommends amending the revised Rule 29 tariffs and Appendix VI to the following:

I understand that I must submit to the Subscriber Organization as an attachment to this form ~~If requested by the Subscriber Organization who is receiving this verification,~~ a copy of the documentation verifying my participation in this program is attached.

The Consumer Advocate states that requiring LMI subscribers to provide documentation at the time of application “would mitigate against a situation where SOs may be found during ‘spot checks’ to not be in compliance with the LMI subscriber

³⁴Consumer Advocate Comments at 31-32.

³⁵Consumer Advocate Comments at 32.

percentage proposed and agreed upon in the PPA or SFC” and would also “promote transparency in the verification process.”³⁶

The Consumer Advocate “generally supports” the modification to remove requirements for LMI anchor tenants to provide explicit proof of service to LMI individuals and households, as it would “allow state or other government agency partners and non-profits to increase the viability of LMI projects while also ensuring that the intent of the project is preserved.”³⁷

The Consumer Advocate believes “it is not clear what other criteria or selection methods Hawaii Energy utilizes to determine eligibility for their Energy Advantage Program or why these for-profit entities, especially restaurants and small businesses, should be considered as serving LMI persons or households.”³⁸

The Consumer Advocate believes that Hawaiian Electric should provide more information on why it included small businesses in its expanded definition of LMI anchor tenants and recommends that Hawaiian Electric and Subscriber Organizations “prioritize government or Hawaii non-profits that demonstrate a commitment to

³⁶Consumer Advocate Comments at 33-34.

³⁷Consumer Advocate Comments at 34.

³⁸Consumer Advocate Comments at 35.

serving LMI individuals and households over small businesses as qualified LMI anchor tenants for 100 percent LMI CBRE Projects.”³⁹

Grid Services and Bid Evaluation Process.

The Consumer Advocate “continues to support requirements to set aside a portion of CBRE project capacity for residential customers as it appeared that most SOs participating in Phase 1 of the CBRE program were primarily targeting commercial customers.”⁴⁰

The Consumer Advocate states that the bid evaluation process appears largely similar to evaluation of prior Hawaiian Electric RFPs, but is “concerned” about the “Companies’ proposal to normalize the benefits from each proposal using each proposal’s [net energy potential] in developing its Priority List” and “questions whether doing so may cause a larger project that confers greater overall benefits but is slightly less attractive on a \$/[kilowatt hour (‘kWh’)] basis to be dropped from consideration when compared to a smaller project that confers fewer overall benefits but is more attractive on a per kWh basis.”⁴¹ Thus, the Consumer Advocate argues that Hawaiian Electric should further explain “why the selected proposals are expected to confer greater benefits to consumers” if there is a conflict between the

³⁹Consumer Advocate Comments at 35-36.

⁴⁰Consumer Advocate Comments at 36.

⁴¹Consumer Advocate Comments at 39.

set of proposals that would have been selected for the Priority List based on an evaluation of each proposal's overall benefits, as opposed to per-output benefits.⁴²

B.

Ulupono

Ulupono states that it supports "an increase to the credit rate at this time[,]" but is concerned that it is "inconsistent with prior Commission decision making" and is "unfair to customers who have recently adopted [distributed energy resources ('DER')] and are enrolled in existing programs (i.e., Customer Grid Supply, Customer Grid Supply Plus, Smart Export) with lower energy credit rates."⁴³ Ulupono is open to adjusting the credit rate to "either mirror the utility's energy charge and/or establishing adders for CBRE projects that can provide grid supportive services."⁴⁴

Ulupono states that, although it may be easier to bring CBRE projects online more quickly without Hawaiian Electric's proposed forty percent (40%) residential subscriber requirement, "Ulupono finds that lowering or removing the requirement could

⁴²Consumer Advocate Comments at 39-40.

⁴³Ulupono Comments at 1-2.

⁴⁴Ulupono Comments at 2.

compromise one of the promised benefits of the CBRE program.”⁴⁵ If the Commission believes lowering or removing the residential requirement will result in a meaningful amount of renewable energy added to the system in the near-term, prior to the AES coal plant retirement, Ulupono states that it “does not object to this program modification.”⁴⁶

C.

Joint Parties

The Joint Parties addressed several topics including: (1) leveraging CBRE to address fossil plant retirements; (2) LMI enrollment and verification; (3) general participation requirements; (4) CCRP backup queue; (5) grid services and bid evaluation and (6) other concerns.

Leveraging CBRE to Address Fossil Plant Retirements.

The Joint Parties state that the Commission “should consider whether the RFP process truly serves the best interests of the public in moving the CBRE market, or is contributing to its inability to get off the ground.”⁴⁷ The Joint Parties believe that the Commission “should release all the capacity at the start of

⁴⁵Ulupono Comments at 3.

⁴⁶Ulupono Comments at 3.

⁴⁷Joint Comments at 3.

CBRE Phase 2, which would fully open the marketplace for CBRE projects and maximize opportunities for projects to come online sooner[,]” which is around 20 megawatts (“MW”) on Oahu, around 6 MW for Maui, and 5 MW on Hawaii island, for a total of around 31 MW.⁴⁸

The Joint Parties state the Commission should consider ways to enhance compensation for all CBRE projects, including: (1) setting credit rates at the retail rate, the utility energy charge, or some other proxy value recognizing grid and societal benefits of CBRE (and removing the CCRP bidding process for small projects); (2) establishing cent/kWh adders or other compensation structures for projects with desired attributes, such as the ability to reduce load or export during the evening peak periods; and (3) creating a clear and simple option for all CBRE projects (Phase 1 and Phase 2) to participate in grid services programs, potentially building off of the work to establish DER grid service options in Docket No. 2019-0323.⁴⁹

The Joint Parties are concerned that Hawaiian Electric’s proposed Simplified interconnection requirements study (“IRS”) for small CBRE projects provides no details and that Hawaiian Electric “generically designated many recommendations as items to be

⁴⁸Joint Comments at 3-4.

⁴⁹Joint Comments at 4-5.

implemented 'before commencement of Phase 2' and areas of 'Continuous Improvement,' with little or no further details, timetables, or supporting documentation."⁵⁰

The Joint Parties suggest that an "Independent Engineer or other neutral entity such as HERA could provide much needed and overdue relief in overseeing and managing the process, scrutinizing the Companies' unit cost estimates to ensure they are reasonable, and resolving disputes" and that Hawaiian Electric "should also be subject to penalties for any delays they cause[.]"⁵¹

LMI Enrollment and Verification. The Joint Parties recommend removing restrictions on serving as anchor tenants to help provide financial stability for LMI projects.⁵² The Joint Parties believe that Hawaiian Electric "should open up additional pathways for LMI projects to succeed by minimizing or eliminating restrictions on serving as anchor tenants."⁵³

The Joint Parties "specifically support the proposed geographic option for determining LMI eligibility based on Hawaii Energy's zip code methodology, which the Joint Parties

⁵⁰Joint Comments at 5-6.

⁵¹Joint Comments at 6.

⁵²Joint Comments at 6-7.

⁵³Joint Comments at 7.

initially proposed.”⁵⁴ The Joint Parties state that Hawaiian Electric “should not exclude” Hawaiian Telcom’s Internet Kokua Program and Spectrum’s Internet Assist “simply because they are not government programs.”⁵⁵

The Joint Parties generally “do not object to the Companies’ simplified verification forms and proposal to conduct discretionary annual spot checks of subscriber organizations[,]” but “*strongly oppose* the Companies’ proposed provisions for disqualifying LMI subscribers and tenants from LMI projects[.]”⁵⁶ The Joint Parties state that Subscriber Organizations “may already face challenges attracting LMI subscribers” and “should not be further tasked with policing and disqualifying them.”⁵⁷

General Participation Requirements. The Joint Parties “continue to have concerns about the 40% residential customer quota” which was a unilateral change that the Commission did not order or approve, and state that “higher residential subscribers should be supported through affirmative incentives such as credit rate adders[.]”⁵⁸

⁵⁴Joint Comments at 7.

⁵⁵Joint Comments at 8.

⁵⁶Joint Comments at 8 (emphasis in original).

⁵⁷Joint Comments at 9.

⁵⁸Joint Comments at 10.

Competitive Credit Rate Procurement ("CCRP") Backup

Queue. The Joint Parties "continue to oppose placing time limits on retaining a CCRP backup queue" and state the "two-year limit the Companies now propose is just as arbitrary as the four months originally proposed."⁵⁹ The Joint Parties state that the backup queue should be retained, at a minimum, through the end of each tranche or phase of CBRE or eliminated completely.⁶⁰

Grid Services and Bid Evaluation. The Joint Parties share the Commission's concerns about the Companies' proposal to use the Integrated Grid Planning docket (Docket No. 2018-0165) and modeling efforts to determine grid needs and evaluate bids for CBRE projects. The Joint Parties argue that Hawaiian Electric should instead consider removing the grid services bid evaluation criteria from CBRE projects and "create a simplified process for valuing and compensating grid services, similar to the emergency DER program under development in Docket No. 2019-0323."⁶¹

Other Concerns. The Joint Parties suggest: (1) removing Hawaiian Electric's proposal to set a size cap on Maui and Hawaii Island projects, because it contravenes prior Commission orders; and (2) that Hawaiian Electric's proposal to require

⁵⁹Joint Comments at 11.

⁶⁰Joint Comments at 11.

⁶¹Joint Comments at 11.

Molokai projects between 1 MW and 2.5 MW to be sited on the Company-owned site at Palaau was "never vetted with the Joint Parties . . . and stakeholders" who may be adversely affected by these "drastic flips."⁶²

D.

Hawaiian Electric Reply Comments

Hawaiian Electric states that it agrees "with many of the suggestions provided by the parties through this collaborative effort" but also recommends "that substantial changes to CBRE Phase 2 not be implemented and that CBRE Phase 2 be permitted to commence as soon as possible following the Commission's review and order on any remaining open issues."⁶³ Hawaiian Electric believes that it has diligently developed the program documents pursuant to the Commission's orders and respectfully disagrees with certain recommendations provided by the Parties.⁶⁴ Hawaiian Electric states that "[r]ecommendations to eliminate or change foundational elements . . . will require substantial

⁶²Joint Comments at 12.

⁶³Hawaiian Electric Response at 1.

⁶⁴See Hawaiian Electric Response at 2.

re-writing of program documents and re-development of the CBRE Online Portal at substantial additional cost.”⁶⁵

Hawaiian Electric identifies its following areas of concern: (1) the Joint Parties recommendations to (a) increase the bill credit rate and remove the CCRP bidding process for CBRE Small Projects; (b) establish adders or other compensation structures for desired project attributes, (c) eliminate the residential subscriber threshold, and (d) extend or eliminate the sunset of the CCRP backup queue; (2) the Consumer Advocate’s recommendations to (a) permit a residential Subscriber to participate in more than one CBRE project at a time, and (b) require turnover of a failed CBRE project’s site control to the Companies in order to complete the project itself or sell the project to another developer; and (3) Ulupono’s recommendation to retain the residential subscriber threshold, and its perceived justification for removing that threshold.

Hawaiian Electric states that a credit rate increase would require a “substantial and costly *re-programming*” of the CBRE Online Portal and add “approximately two months to the go-live date[.]”⁶⁶ Hawaiian Electric adds that providing the

⁶⁵Hawaiian Electric Response at 2.

⁶⁶Hawaiian Electric Response at 2 (emphasis in original).

ability to permit CBRE subscribers to participate in more than one CBRE project would also involve "substantial and costly *new programming*" to be added to the CBRE Online Portal and the new feature would add an "additional six months to design, program, test and implement."⁶⁷

Hawaiian Electric argues that "[i]ncreasing the bill credit rate to Subscribers will increase the subsidy that non-participating customers will bear to support CBRE."⁶⁸ Hawaiian Electric notes that CBRE was created to provide fair compensation for electricity, electric grid services and other benefits for participating and non-participating ratepayers and the Joint Parties' recommendation to increase the fixed credit rate and do away with the CCRP auction process is "directly inconsistent with the Commission's prior order and will shift an increasing cost of CBRE to non-participating customers."⁶⁹ Hawaiian Electric further notes that no CBRE Phase 1 project has commenced marketing for residential subscribers and emphasizes that "[s]uch customers" unable to support their own renewable energy system were the prime targets of Act 100, and therefore

⁶⁷Hawaiian Electric Response at 2 (emphasis in original).

⁶⁸Hawaiian Electric Response at 3.

⁶⁹Hawaiian Electric Response at 3.

states that adders suggested by the Joint Parties "are not the answer given the increased cost to non-participating customers."⁷⁰

Hawaiian Electric opposes "an indefinite queue with no expiration date" and believes the Joint Parties' recommendation of an indefinite CCRP queue would be "problematic" because it is similar to the Feed-In-Tariff ('FIT') program's "reserve queue[,]" which the Commission terminated.⁷¹ Hawaiian Electric believes that an indefinite queue could "cause confusion in the market as developers and customers will necessarily have to review and compete with multiple projects and program characteristics from different phases."⁷² Hawaiian Electric is also concerned about "potential queue squatting or hoarding" by developers who may not intend to develop a CBRE project but instead "desire to establish a competitive market for queue slots[,]" which could add an administrative burden without a "tangible benefit to offset such costs."⁷³

Hawaiian Electric appreciates the Consumer Advocate's "creative suggestion that developers be required to turn over site control of failed CBRE projects to the Companies[,]" but believes

⁷⁰Hawaiian Electric Response at 3.

⁷¹Hawaiian Electric Response at 3.

⁷²Hawaiian Electric Response at 3.

⁷³Hawaiian Electric Response at 3.

it would “present several complications.”⁷⁴ Hawaiian Electric believes that property owners and project lenders will “likely not be amendable to” negotiation agreements with project developers, if there are “provisions that allow for transfer of the site to the Companies[.]”⁷⁵

III.

DISCUSSION

The Legislature established the CBRE program with the goal of “dramatically expanding the market for eligible renewable energy resources to include residential and business renters, occupants of residential and commercial buildings with shaded or improperly oriented roofs, and other groups who are unable to access the benefits of onsite clean energy generation.”⁷⁶ The Legislature found it “in the public interest to promote broader participation in self-generation by Hawaii residents and businesses through the development of community-based renewable energy facilities[.]”⁷⁷ The Legislature also found that the CBRE

⁷⁴Hawaiian Electric Response at 4.

⁷⁵Hawaiian Electric Response at 4.

⁷⁶2015 Haw. Sess. Laws Act 100, §§ 1-2 (“Act 100”) at 250. Act 100 was later codified as HRS § 269-27.4.

⁷⁷Act 100 at 250.

program “should accommodate a variety of community-based renewable energy projects, models, and sizes.”⁷⁸

Consistent with the goals of Act 100, and recovery from the COVID-19 Emergency, the Commission commenced Phase 2, seeking to “dramatically expand access to the economic, environmental, and societal benefits of renewable energy.”⁷⁹ The Commission provides the following directives and guidance on the March 30 CBRE Filings to bring these goals closer to reality.

A.

General Program Changes and Requirements

1.

Navigation of CBRE Documents

The Commission appreciates Hawaiian Electric’s efforts to substantially streamline and clarify the March 30 CBRE Filings, including the Navigation Guide⁸⁰ and a flowchart.⁸¹ Although the Commission believes that the flowchart can provide useful and easily accessible information to potential CBRE

⁷⁸Act 100 at 250.

⁷⁹Order No. 37070 at 20.

⁸⁰See March 30 CBRE Filings, Exhibit 1, Table 1 (“Navigation Guide”).

⁸¹See March 30 CBRE Filings, Exhibit 1, Attachment 2 and Attachment 3.

developers, the Commission shares the Consumer Advocate's concern that the LMI projects do not appear on the flowchart.⁸² Therefore, the Commission directs Hawaiian Electric to incorporate LMI projects into the flowchart or make an additional flowchart to highlight this critical element of the Phase 2 CBRE program.

2.

Clarity, Consistency, and Completion

The Commission believes the March 30 CBRE Filings require several modifications to ensure that they are clear, internally consistent, and complete. The Commission specifically notes the following areas for improvement.

Navigation Guide. Hawaiian Electric's Navigation Guide is a welcome improvement to the CBRE filings, but it lacks necessary details in certain areas. Specifically, the Navigation Guide does not include certain island-specific addenda or DC-coupled provisions, which may be required documents for a full contract for developers. Those contract documents could be difficult to find.⁸³ Similarly, the decision trees/flowcharts are not always comprehensive. In light of stakeholder comments and

⁸²See Consumer Advocate Comments at 8.

⁸³See March 30 CBRE Filings, Appendix B to each RFP, Navigation Guide.

previous direction from the Commission, Hawaiian Electric should revise these guides, and improve their completeness and clarity wherever possible.

Company Owned Interconnection Facilities.

The description or definition of "Company-Owned Interconnection Facilities" is not included in Appendix H (Interconnection Facilities Cost & Schedule Information), nor in Appendix A (Definitions). For Lanai, the description is hundreds of pages into Appendix L (i.e., the Model PV Large RDG PPA). This definition is important when reviewing the breakdown of interconnection costs. Hawaiian Electric should include this definition, or a reference to its location, in the Appendix H for each RFP.

Molokai RFP. The Commission is concerned that potential CBRE developers may find some language around project capacity caps in the Molokai RFP to be confusing.⁸⁴ Hawaiian Electric states that it is seeking projects of "at least 250 kW," but then places a limit on distribution level projects of 250 kW. The Commission

⁸⁴See March 30 CBRE Filings, Exhibit 7 at 5 (stating: "In this RFP, the Company seeks new variable photovoltaic ('PV') dispatchable generation projects (with a Battery Energy Storage System ('BESS')) of at least 250 kW . . . Mid-Tier Projects will utilize a preapproved standard form contract in the form of Appendix K 'Mid-Tier SFC'). Each Mid-Tier Project will be limited to 250 kW at the distribution level and 1 MW or larger, up to and including 2.5 MW at the Palaau Generating Station."

interprets this to mean that mid-tier projects that connect at the distribution level must be equal to 250 kW. This interpretation is supported in other documents, such as the table in Appendix B.⁸⁵ However, if this is the case, the current language in the RFP is not clear enough. To avoid potential confusion, the Commission directs Hawaiian Electric to more clearly and explicitly identify project caps for the Molokai RFP.

Other Inconsistencies. The Commission appreciates what Hawaiian Electric has done to simplify and clarify the March 30 CBRE filings. As Hawaiian Electric refines its CBRE filings, consistent with this Order, it must strive for consistency across exhibits, where possible and sensible, and highlight where inconsistencies exist, briefly explaining why each inconsistency is necessary or beneficial. Before filing the final CBRE documents, Hawaiian Electric should ensure documents are complete. If pages are intentionally left blank, they should be marked as such. For example, some pages within Appendix I do not display correctly on Hawaiian Electric's website, although they appear to be correct in the March 30 CBRE filings.⁸⁶ Further, some documents

⁸⁵See March 30 CBRE Filings, Exhibit 7, Appendix B at 96.

⁸⁶Compare March 30 CBRE Filings, Exhibit 5, Appendix I at 22, with "Appendix I - Grid Needs Assessment," available at https://www.hawaiianelectric.com/documents/clean_energy_hawaii/s

reference websites that are currently broken links.⁸⁷ A final example is that for the LMI PPA, Exhibit B-1 is almost blank, but the same exhibit for the Lanai RFP is several pages long.⁸⁸ There may be other examples.⁸⁹

3.

Program Capacity and Storage Requirements

In Docket No. 2020-0136, the Commission issued Decision and Order No. 37754 ("Order No. 37754"), which conditionally approved the Energy Storage Purchase Power Agreement between Hawaiian Electric and Kapolei Energy Storage, for a 185 MW, 565 MWh BESS to be located in Kapolei. Conditions on that approval included removing requirements for energy storage on Phase 2 CBRE projects on Oahu and expanding the available capacity

[elling power to the utility/competitive bidding/20210330 cbre rfp/appx i lmi and tranche 1.pdf](#) at 22.

⁸⁷See, e.g., <https://www.hawaiianelectric.com/clean-energy-hawaii/our-clean-energy-portfolio/renewable-project-statusboard>.

⁸⁸Compare March 30 CBRE Filings, Exhibit 10 at 251, with March 30 CBRE Filings, Exhibit 11 at 259.

⁸⁹For example, Exhibit B-2 (Generator and Energy Storage Capability Curve(s)) is entirely blank in both the LMI and Tranche 1 PPA - March 30 CBRE Filings, Exhibit 10 at 252 - and the Lanai PPA - March 30 CBRE Filings, Exhibit 11 at 262 - and it is not readily apparent whether it will be completed for the final contract. Typically, Hawaiian Electric notes where the contract may change, pending the results of the IRS.

for Phase 2 CBRE projects.⁹⁰ Later, the Commission granted, in part, Hawaiian Electric's motion to reconsider Order No. 37754, and in doing so, removed this condition and re-directed these issues to the CBRE and DER dockets for further consideration.⁹¹

The Commission expects that the approved Kapolei BESS will be operational in time to absorb excess energy on Oahu, including from potential CBRE projects that do not have storage capabilities. The Commission believes that there are significant benefits to having the Kapolei BESS absorb excess energy from CBRE projects on Oahu, thereby displacing some oil-fired generation. Therefore, the Commission now re-affirms its initial position that Hawaiian Electric may not require storage for Phase 2 CBRE projects on Oahu. To be clear, Hawaiian Electric may accept proposals for CBRE projects paired with storage on Oahu, but it may not require Oahu CBRE projects to have storage. The Commission will scrutinize any proposed evaluation criteria that appear to circumvent this requirement.

⁹⁰See Docket No. 2020-0136, Decision and Order No. 37754, filed on April 29, 2021, at 4.

⁹¹See Docket No. 2020-0136, Order No. 37784, "Granting, In Part, Hawaiian Electric Company Inc.'s Motion for: (1) Reconsideration and (2) Stay, and Clarifying Decision and Order No. 37754," filed on May 13, 2021, at 10-12.

The Joint Parties advocated for the release of all Phase 2 program capacity at the start of CBRE Phase 2.⁹² Similarly, the Commission believes that smaller, distributed resources will provide significant system benefits, in addition to helping mitigate anticipated reserve shortfalls related to the AES coal plant retirement. Therefore, consistent with the Commission's past guidance and the Joint Parties' recommendations, the Commission will expand Phase 2 Small Projects capacity by fifty percent (50%) and consolidate Tranche 1 and Tranche 2 capacities for Small Projects, to make more CBRE capacity available as soon as possible.

Given the untested nature of the RFP-driven CBRE project classes, it is unclear that program capacity expansion for RFP CBRE projects will yield more optimal outcomes at this stage of the program's maturity. Therefore, the Commission will preserve the Tranche 1 and Tranche 2 program capacity amounts for the mid-tier and RFP projects. The Commission will monitor the progress of Phase 2 and may increase Tranche 2 program capacity prior to its commencement, if circumstances warrant. The revised CBRE Phase 2 program capacity will be as follows:

⁹²See Joint Comments at 3.

Revised Phase 2 Program Capacity

Island	Tranche 1 (MW)		Tranche 2 (MW)		Total (MW)	LMI
	RFP	Small Projects	RFP	Small Projects	All Projects	
Oahu	75	30	75	--	180	Minimum of 1 uncapped project
Hawaii	12.5	7.5	12.5	--	32.5	Minimum of 1 uncapped project
Maui	12.5	7.5 + 975 kW transferred from Phase 1	12.5	--	33.475	Minimum of 1 uncapped project
Molokai	2.5 + 250 kW transferred from Phase 1				2.75	
Lanai	2.5 + 500 kW transferred from Phase 1				3	

4.

Project Requirements

Project Size Caps. Consistent with the Commission's past guidance and the Joint Parties' recommendations, the Commission will clarify certain requirements related to Molokai, Maui, and Hawaii Island. The Joint Parties are rightly concerned with Hawaiian Electric's proposal to place project size cap on Maui and Hawaii Island projects, and requiring Molokai projects between 1 MW and 2.5 MW to be sited on the Company-owned

site at Palaau, despite the Commission's direction.⁹³ On Molokai, Subscriber Organizations must have the option to site a 1-2.5 MW project on a non-Company-owned parcel of land. Such subscriber organizations would, of course, bear the risk and costs of interconnecting a larger project outside of the identified site.

In addition, if a Subscriber Organization's CBRE project is sited on Company-owned land, that Subscriber Organization shall retain a 'right of first refusal' to continue operation of the CBRE project beyond its initial 20-year term - and, if it chooses not to continue operation, Hawaiian Electric should have the option to assume ownership and compensate the Subscriber Organization for the salvage price of the project infrastructure. In addition, Hawaiian Electric shall explicitly permit a minimum of one uncapped LMI project for each of Maui and Hawaii Island, as it does for Oahu. The 2.5 MW project size cap may remain in place for all other project types. Accordingly, Large LMI Projects must be permitted for Maui and Hawaii Island, greater than 2.5 MW - with no upper limit cap.⁹⁴

Technology Limits. The Commission supports Hawaiian Electric's decision to remove wind as an eligible technology in

⁹³See Joint Comments at 12 (citing Order No. 37070 at 24-25).

⁹⁴See Order No. 37070 at 23.

CBRE Phase 2. The Commission believes that a wind-based CBRE project would be unlikely to be proposed, and this modification will simplify program administration and streamline program documentation.

B.

Small Projects and Rule 29

1.

Escrow Account Requirement

Section I.B.3.b of the proposed Rule 29 tariffs requires Subscriber Organizations to make a deposit into an approved escrow account in certain situations. The Commission is concerned that this escrow requirement may be too broad, especially when applied to Subscriber Organizations that use a pay-as-you-go model, which requires no upfront subscriber deposit. Therefore, the Commission directs Hawaiian Electric to revise its proposed Rule 29 tariffs to explicitly allow the Independent Observer ("IO") to reduce or waive the deposit (and escrow account) requirement for CBRE Small Projects, non-profit subscription organizations, and pay-as-you-go CBRE Projects. This approach would allow for targeted flexibility around the requirement, while still providing some consumer protection guardrails. The Commission understands that this requirement may be moot in the case of pay-as-you-go

projects. The IO shall use its best judgement when reducing or waiving the deposit and escrow account requirement, and specifically consider if the benefit of waiver or reduction outweighs any reduction in consumer protection.

2.

Subscriber Organization Requirements

Demonstration of Prior Experience. Hawaiian Electric's proposed Rule 29 tariffs now omit the prior experience requirement from the Phase 1 tariff, which requires that a Subscriber Organization applicant demonstrate its capability by showing experience in developing and operating at least one generation project of similar size to the proposed project. Although removing the development and operation experience requirement from the Phase 2 Rule 29 tariffs could encourage more applications, the Commission is concerned that it will hinder the CBRE program because developer inexperience can cause significant delays. Therefore, the Commission directs Hawaiian Electric to restore the prior Phase 1 tariff language around the need for prior relevant project experience to its proposed Phase 2 Rule 29 tariffs. Hawaiian Electric shall also restore the language that allows the IO to waive this provision for applicants proposing systems under 250 kW, that also meet certain criteria

(e.g., 501(c)(3) corporations, projects dedicated to LMI customers, and other projects determined appropriate by the IO).

Commercial Operations Definition. The current definition of commercial operations in the standard form contracts requires a Subscriber Organization to provide written notice that it has enrolled at least four subscribers before it can declare the commercial operations date. Based on experiences in Phase 1, the Commission is concerned that this definition may be too inflexible, and could result in Phase 2 projects failing to meet their 18-month deadline to declare commercial operations. Therefore, the Commission directs Hawaiian Electric to amend its definitions such that the date of commercial operations means "the first full day of the first full calendar month upon which commercial operation is achieved following completion of all Interconnection Agreement requirements and processes." The Commission also directs Hawaiian Electric to offer any Phase 1 Subscriber Organization the opportunity to amend its contract to use this new definition for the date of commercial operations.

Letter of Credit. The Commission is concerned that the letter of credit requirements may be unnecessary in some cases. Specifically, the Commission believes that letters of credit should not be required of Subscriber Organizations that pay the entire up-front costs of interconnection facilities, or in cases

where there are no costs for interconnection facilities. Therefore, the Commission directs Hawaiian Electric to amend the Interconnection Agreement form to not require a letter of credit from a Subscriber Organization when either: (1) the Subscriber Organization pays all interconnection facilities' costs up front; or (2) the Subscriber Organization is not required to be responsible for any interconnection facilities costs at all. In addition, the Commission grants the IO the discretion to waive the letter of credit requirement on a case-by-case basis. The IO shall use its best judgement when waiving the letter of credit requirement, and specifically consider if the benefit of a waiver outweighs any reduction in consumer protection.

3.

Financial Compliance and Records

In Hawaiian Electric's proposed Rule 29 tariffs, prior to developing a CBRE facility, potential Subscriber Organizations must: "[d]emonstrate/establish financial creditworthiness through posting of a surety bond, a financial guarantee, a letter of credit, or other sufficient evidence of financial ability to develop the project."⁹⁵ The Commission is concerned that this

⁹⁵March 30 CBRE Filings, Exhibit 2 at 15.

requirement may not be flexible enough to accommodate a variety of viable Subscriber Organizations and projects. Therefore, the Commission directs Hawaiian Electric to amend its proposed Rule 29 tariffs to allow greater flexibility to demonstrate financial integrity. Specifically, Hawaiian Electric shall allow any one of the following to suffice as evidence of financial ability to develop the project: (1) investment grade (i.e., BBB- or higher) credit rating; (2) Edison Electric Institute master agreement already in place with Hawaiian Electric; (3) demonstration of successful project financing for at least two solar projects of comparable size; or (4) showing the parent corporation's investment grade credit rating. When a standard form contract is to be executed, Hawaiian Electric may require a Subscriber Organization to disgorge its financial statements so that Hawaiian Electric's credit department can review them when determining whether to extend unsecured credit. Hawaiian Electric shall amend all applicable sections of the RFPs and Disclosure Checklist to be consistent with the amendments made for the Rule 29 tariffs.

4.

Minimum Savings Rate

Although the Commission understands that a minimum savings rate could make CBRE more attractive to potential subscribers, the Commission is concerned that a minimum savings rate could be difficult to appropriately calculate and even more difficult to enforce. It could also preclude small, community-led efforts that are driven by more than purely economic benefits. Therefore, the Commission will not adopt a minimum CBRE savings rate at this time. The Commission will monitor the progress of Phase 2, Tranche 1, and may reconsider this issue before launching Tranche 2.

5.

Subscriber Limits

Hawaiian Electric's proposed Rule 29 tariffs define Customer Participation and Eligibility to only include those customers:

not currently enrolled or participating in Schedule Q, Net Energy Metering, Feed-in Tariff, Standard Interconnection Agreement, Customer Grid Supply, Customer Grid Supply Plus, Smart Export, or Customer Self-Supply tariff program, or similar customer program at the same service location where CBRE participation is requested; and Customer is

not currently a Subscriber for another CBRE Phase 1 or Phase 2 Facility.⁹⁶

The Consumer Advocate recommends relaxing the one CBRE Facility per Subscriber requirement, suggesting that, after a pre-determined period, such as six months, where the CBRE project has been made available and available capacity remains, it may be prudent to allow residential customers who have already subscribed to a CBRE project to subscribe to additional capacity in the same or different CBRE facility.⁹⁷ Hawaiian Electric indicated that such a modification would result in an "additional six months to design, program, test and implement[,]" resulting in "costly new programming."⁹⁸ The Joint Parties believe that Hawaiian Electric has "made several improvements to the general participation requirements, such as loosening restrictions on CBRE interest transfers to a minimum of 50% (as opposed to 100%) [.]"⁹⁹

The Commission supports the intent behind the Consumer Advocate's proposed approach to create more flexibility for Subscribers and ultimately more demand for CBRE Facilities by allowing residential Subscribers an opportunity to subscribe to

⁹⁶March 30 CBRE Filings, Exhibit 2 at 2 (emphasis added).

⁹⁷See Consumer Advocate Comments at 10.

⁹⁸Hawaiian Electric Response at 2.

⁹⁹Joint Comments at 10.

additional capacity in the same or different CBRE facility - after a pre-determined period - recommended to be 6-12 months - and subject to a cap of one hundred percent (100%) of historical load. But the Commission believes that this would likely add material complexity to the Companies' Customer Information System and CBRE Online Portal, resulting in significant delays. Therefore, the Commission declines to adopt the Consumer Advocate's recommendation and will preserve the existing Subscriber eligibility requirements, which only permit subscription to one (1) CBRE Facility at a time. The Commission may revisit this determination before launching Tranche 2. The Commission agrees with the Consumer Advocate's proposed customer addition of "a provision allowing customers to crosscheck and notify the Companies and SOs of errors in subscription size based on past bills[,]"¹⁰⁰ and directs Hawaiian Electric to modify the customer portal accordingly.

The Commission agrees with the Joint Parties that Hawaiian Electric has improved its general participation requirements to allow more customers to be eligible for CBRE programs, including making CBRE available to any customer that "has a current electricity account with the Company and has

¹⁰⁰Consumer Advocate Comments at 10.

received service at the same location for which they are requesting participation for at least 3 months at the time of enrollment.”¹⁰¹

6.

Credit Rate

The Commission acknowledges the Parties’ suggestions that the CBRE credit rate should be increased, or include certain credit rate adjustments or adders.¹⁰² The Commission also appreciates Hawaiian Electric’s concerns that these changes could be costly and time consuming to implement.¹⁰³ At this time, the Commission is not inclined to change the credit rates set forth in Order No. 37070. The Commission will monitor Phase 2’s progress and may revisit this determination before launching Tranche 2. The Commission will consider options related to “virtual self-consumption” for multi-family dwellings - which attempts to mimic the rooftop solar experience by matching facility output with individual load profile (on an hourly basis) and compensating any excess generation subject to a rate cap - in Docket No. 2019-0323.

¹⁰¹March 30 CBRE Filings, Exhibit 2 at 2.

¹⁰²See, e.g., Ulupono Comments at 2, and Joint Comments at 3-4.

¹⁰³See, Hawaiian Electric Response at 2-3.

Competitive Credit Rate Procurement Backup Queue

Hawaiian Electric's proposed Rule 29 tariffs state that "[t]he queue process will remain active until the earlier to occur of, the next tranche of a phase, or the next phase of the CBRE Program commences, e.g., when applications or proposals begin to be accepted, or two years after CBRE Phase 2, Tranche 1, commences."¹⁰⁴ The Joint Parties assert that the backup queue should be retained, at minimum, through the end of each tranche or phase of CBRE, or eliminated entirely, because it would allow projects to progress in the event there is another lengthy delay between tranches and phases.¹⁰⁵ Hawaiian Electric opposes an indefinite queue, stating that it would "cause confusion in the market" and "potential queue squatting or hoarding by speculating individuals who may have no intention of developing a CBRE project but instead desire to establish a competitive market for queue slots."¹⁰⁶ Hawaiian Electric is "only opposed to an indefinite queue with no expiration date which the Companies believe will

¹⁰⁴March 30 CBRE Filings, Exhibit 2, at 19-20.

¹⁰⁵See Joint Comments at 11.

¹⁰⁶Hawaiian Electric Response at 3.

lead to many of the issues found with the 'reserve queue' in the FIT Program."¹⁰⁷

The Commission supports the Joint Parties' suggested modification, but shares some of Hawaiian Electric's concerns about an indefinite queue. Therefore, the Commission directs Hawaiian Electric to modify its queue language so that it reads:

The queue process will remain active until the later to occur of either (1) the next tranche of a phase commences, or the next phase of the CBRE Program commences, (i.e., when applications or proposals begin to be accepted); or (2) or two years after CBRE Phase 2, Tranche 1, commences (i.e., the date final RFPs and tariffs are approved), at which time, no new submissions may be added to the queue.

This approach should provide enough time for backup applications to be processed with an expiration date tied to specific program milestones, and provide a better opportunity for successful CBRE projects to move forward and be deployed.

¹⁰⁷Hawaiian Electric Response at 3.

C.

RFPs

1.

LMI

i.

Customer Eligibility and Verification

Hawaiian Electric proposes to eliminate mandatory income certification and verification requirements and implement LMI self-certification, with Subscriber Organizations responsible for verification.¹⁰⁸ In response, the Consumer Advocate emphasized that "it will be extremely important to verify what percentage of LMI CBRE project participants are actually LMI customers, versus non-LMI customers residing in LMI zip codes, to ensure that the goals of Act 100 are being met."¹⁰⁹ The Joint Parties generally do not object to the Companies' simplified verification forms and proposal to conduct discretionary annual spot checks of subscriber organizations.¹¹⁰

The Commission understands the Consumer Advocate's concerns, but believes that simplicity is essential to promoting

¹⁰⁸See March 30 CBRE Filings, Exhibit 1 at 8. See also Exhibit 2 at 43-44.

¹⁰⁹Consumer Advocate Comments at 30.

¹¹⁰See Joint Comments at 8.

LMI CBRE projects, and therefore generally supports the Companies' simplified verification forms and proposal to conduct discretionary annual spot checks of Subscriber Organizations.

ii.

LMI Subscriber Disqualification

Hawaiian Electric proposed a list of conditions whereby a customer could initially qualify as an LMI subscriber but could subsequently be removed.¹¹¹ The Joint Parties strongly oppose these proposed provisions for disqualifying LMI subscribers and tenants from LMI projects. The Joint Parties argue that LMI subscribers should not be required to self-report changes in their LMI status or be subjected to subscription cancellation if their circumstances improve, and that subscriber organizations that may already face challenges attracting LMI subscribers should not be further tasked with policing and disqualifying them.¹¹²

The Commission shares the Joint Parties' concerns about Hawaiian Electric's proposed provisions for disqualifying LMI Subscribers and tenants from LMI projects. Any purported benefits of having LMI subscribers self-report changes in their

¹¹¹See March 30 CBRE Filings, Exhibit 2 at 43-44.

¹¹²See Joint Comments at 8-9.

LMI status are significantly outweighed by the administrative burden such an approach would require and the additional risk and transaction costs for LMI CBRE projects - a challenging and critical market to serve. Therefore, the Commission directs Hawaiian Electric to remove every instance of these proposed conditions from its subsequent Phase 2 filings.¹¹³

¹¹³See, e.g., Hawaiian Electric March 30 CBRE Filings, Exhibit 2 at 43-44, stating:

4. Once a LMI Customer's eligibility is confirmed by submittal of a completed LMI Subscriber Certification, subsequent income changes will not disqualify the LMI Customer's eligibility. If, however, an LMI Customer's qualification criteria changes, e.g., an LMI Customer is disqualified from a program upon which he/she based his/her LMI status, or the qualification criteria upon which the LMI Customer qualified otherwise changes, e.g., such as revisions made to eligibility for Hawaii Energy's Affordability and Accessibility Program, the LMI Customer may be subject to losing his/her LMI Subscriber status. In such event, the LMI Customer must notify the Subscriber Organization and Hawaiian Electric within 30 days so that subsequent actions can be explored to maintain the LMI Subscriber's status. If, however, no alternative measures are available, the LMI Customer may, with the concurrence of the IO, lose his/her LMI Subscriber status.

5. As to LMI Anchor Tenants, if its qualification criteria changes or the qualification criteria is otherwise changed, e.g., such as revisions made to eligibility for Hawaii Energy's Energy Advantage Program, the LMI Anchor Tenant may be subject to losing its LMI Subscriber status. In such event, the LMI Anchor Tenant must notify the Subscriber Organization and Hawaiian Electric within 30 days so that subsequent actions can be explored to maintain the LMI Anchor Tenant's status. If, however, no alternative measures

iii.

LMI Eligibility Factors

Geographic Eligibility Factors. Hawaiian Electric's March 30 CBRE Filings included geographic eligibility for LMI customers based on zip code and census data.¹¹⁴ The Joint Parties support the proposed geographic option for determining LMI eligibility based on Hawaii Energy's zip code methodology, which the Joint Parties initially proposed.¹¹⁵ The Consumer Advocate, on the other hand, strongly opposes relying solely on a geographical filter, citing concerns that this approach would allow Subscriber Organizations to solicit and enroll households whose incomes may well exceed LMI guidelines, thereby occupying the reserved capacity for LMI projects and

are available, the LMI Anchor Tenant may, with the concurrence of the IO, lose its LMI Subscriber status.

6. In any situation where a LMI Subscriber no longer qualifies for LMI status and is subject to losing such status, any affected CBRE LMI Project shall have six (6) months to replace the LMI Subscriber with another LMI Subscriber (either LMI Customer or LMI Anchor Tenant, as applicable) and the disqualified LMI Subscriber may remain a LMI Subscriber until it can be replaced. No liquidated damages shall be assessed against the Subscriber Organization during this six (6) month correction period.

¹¹⁴See March 30 CBRE Filings, Exhibit 1 at 7.

¹¹⁵See Joint Comments at 7.

steering benefits away from potential LMI subscribers, and may lead to unscrupulous targeting “on individuals and households in these areas who are already experiencing economic precarity and/or hardship to fraudulent activities and marketing practices related to the CBRE LMI Program.”¹¹⁶ Further, the Consumer Advocate recommends that geographic factors be complemented by additional verification and enrollment requirements and consumer protections, such as either some form of income self-attestation or participation in existing social service programs and community organizations that serve and engage with LMI and/or ALICE individuals and households.¹¹⁷

Other Eligibility Factors. After adding geographic factors, Hawaiian Electric also expanded the list of comparable programs for eligibility to more than 20 qualifying programs to certify LMI subscribers, including a catch-all provision covering participation in any verified government program providing services to LMI persons or households.¹¹⁸ The Consumer Advocate “strongly supports the use of Hawaiian Electric’s expanded list of Federal and State social service programs as proxies for LMI eligibility and verification in addition to the use of the

¹¹⁶Consumer Advocate Comments at 28.

¹¹⁷See Consumer Advocate Comments at 21, 25-30.

¹¹⁸See March 30 CBRE Filings, Exhibit 1 at 8-9.

U.S. Housing and Urban Development ('HUD') guidelines for low-to-moderate income."¹¹⁹ The Consumer Advocate believes that utilizing these programs will reduce costs and administrative burdens.¹²⁰ Moreover, the Joint Parties and the Consumer Advocate agree with respect to adding Hawaiian Telcom's Internet Kokua Program and Spectrum's Internet Assist to Hawaiian Electric's list of comparable programs.¹²¹ The Consumer Advocate also observes that "both programs currently utilize Federal and Hawaii State public assistance programs/subsidies that are currently on the Hawaiian Electric Companies' proposed list of acceptable proxies to determine LMI status."¹²²

The Commission appreciates Hawaiian Electric's efforts to implement the Commission's directions with respect to LMI verification and eligibility factors, which now include three paths to eligibility: (1) self-certification of an eligible income level; (2) participation in one of over 20 other LMI programs; or (3) geographic eligibility.¹²³ The Commission believes

¹¹⁹Consumer Advocate Comments at 20.

¹²⁰See Consumer Advocate Comments at 31.

¹²¹See Joint Comments at 8, Consumer Advocate Comments at 31-32.

¹²²Consumer Advocate Comments at 32-33.

¹²³See, e.g., March 30 CBRE Filings, Exhibit 2 at 41-42.

Hawaiian Electric's approach, as modified by Section III.C.1.ii., above, and as further modified by including Hawaiian Telcom's Internet Kokua Program and Spectrum's Internet Assist program to the list of LMI programs, will appropriately allow Hawaiian Electric to verify that those who benefit from LMI CBRE projects are actually LMI customers, without unnecessarily complicating project development and program administration. The Commission will monitor implementation as Phase 2 progresses and may adjust eligibility and verification requirements as part of Tranche 2.

iv.

Anchor Tenants

Hawaiian Electric proposes to expand its definition of LMI anchor tenants to include government agencies, 501(c)(3) nonprofits, or any entities participating in Hawaii Energy's Energy Advantage Program.¹²⁴ The Consumer Advocate generally supports this modification, as it would allow state and other government agency partners and non-profits to increase the viability of LMI projects while also ensuring that the intent of

¹²⁴See March 30 CBRE Filings, Exhibit 1 at 8.

the project is preserved.¹²⁵ The Consumer Advocate has reservations concerning qualifying small businesses participating in Hawaii Energy's Energy Advantage Program as LMI anchor tenants and recommends that Hawaiian Electric clarify why it included these businesses in the definition of anchor tenants.¹²⁶ The Consumer Advocate further recommends that Hawaiian Electric and Subscriber Organizations "prioritize government or Hawaii non-profits that demonstrate a commitment to serving LMI individuals and households over small businesses as qualified LMI anchor tenants for 100 percent LMI CBRE Projects."¹²⁷ The Joint Parties recommend that Hawaiian Electric should open up additional pathways for LMI projects by minimizing or eliminating restrictions on serving as anchor tenants.¹²⁸ The Joint Parties suggest that removing these restrictions on serving as anchor tenants would avoid the extra risk and administrative burdens associated with losing anchor tenant status.¹²⁹

The Commission believes that Hawaiian Electric's proposed approach to anchor tenants provides a reasonable balance

¹²⁵See Consumer Advocate Comments at 34-36.

¹²⁶See Consumer Advocate Comments at 34-36.

¹²⁷Consumer Advocate Comments CA at 35-36.

¹²⁸See Joint Comments at 7.

¹²⁹See Joint Comments at 8-9.

between ensuring that LMI CBRE projects serve LMI customers, and making the LMI program reasonably easy to implement and manage. The Commission will monitor implementation as Phase 2 progresses and may adjust anchor tenant requirements as part of Tranche 2, if these requirements prove difficult or unworkable.

2.

Molokai

The Molokai Clean Energy Hui highlights certain details that are critical to creating trust and support for a project, such as timing and advance notice, choosing a platform where participants can see who the community is interacting with, and scheduling opportunities throughout the planning process for community input.¹³⁰ The Molokai Clean Energy Hui states that the Commission and Hawaiian Electric should pilot a more collaborative approach to community outreach for the Molokai RFP and see if it produces an improved project outcome.¹³¹ Similarly, the Consumer Advocate suggests that Hawaiian Electric identify

¹³⁰See Letter From: L. Chow To: Commission Re: "Docket No. 2015-0389 - Molokai Clean Energy Hui Comment regarding Hawaiian Electric's March 30, 2021 Draft CBRE FRP Filings," filed on April 14, 2021 ("Molokai Clean Energy Hui Public Comments"), at 1-2.

¹³¹See Molokai Clean Energy Hui Public Comments 2.

potential sites, engage in early community outreach regarding the potential development of renewable energy projects on those sites and, if any potential sites and/or projects enjoy community support, the potential interconnection studies and facilities could be started as a possible pool of sites to bid on and develop.¹³²

Past experiences counsel that it will be extremely difficult to site a CBRE project on Molokai if that project does not have broad and deep support. The Commission believes that Hawaiian Electric should view CBRE on Molokai as an opportunity to improve its community-engagement processes. To that end, the Commission directs Hawaiian Electric to hold at least one additional community meeting, within 30 days of this Order, to further gauge the interest in potential CBRE projects on Molokai, and if so, ask community members where and when such projects should be built, and how large they should be.¹³³ Hawaiian Electric must explicitly consider project sites that it does not own. If there is sufficient community interest in CBRE projects on Molokai, Hawaiian Electric must actively engage in early and continuous community outreach regarding the

¹³²See Consumer Advocate Comments at 15-16.

¹³³The Molokai Letter directed Hawaiian Electric to hold such a meeting, and provided specific additional guidance.

potential projects at particular sites. Hawaiian Electric should: (1) invite any developer who has signed a non-disclosure agreement with the Phase 2 RFP team to this meeting; (2) invite any other interested stakeholders and the CBRE independent Observer; (3) only share public (i.e., non-confidential) information at this meeting; and (4) post a recording and/or transcript of this meeting on its CBRE website. The Commission may provide further direction after this meeting has taken place. After incorporating stakeholder feedback received at this meeting, Hawaiian Electric shall file a revised draft Molokai RFP for CBRE Phase 2 (including redline and clean versions, and any supporting documents). Ideally, Hawaiian Electric should file the revised draft Molokai RFP for CBRE Phase 2 together with the other CBRE documents (i.e., by August 25, 2021). Recognizing that more time may be necessary to schedule the meeting and incorporate stakeholder feedback, the Commission directs Hawaiian Electric to file its revised draft Molokai RFP for CBRE Phase 2 no later than 20 days after it holds the Molokai meeting.

D.

Grid Services and Bid Evaluation

The Joint Parties "share the Commission's concerns about the Companies' proposal to use the IGP docket and modeling efforts

to determine grid needs and evaluate bids for CBRE projects.”¹³⁴ The Joint Parties request the Commission consider removing grid services bid evaluation criteria from CBRE projects, and instead create a simplified process for valuing and compensating grid services, similar to the emergency DER program under development in Docket No. 2019-0323.¹³⁵

The Consumer Advocate is concerned about Hawaiian Electric’s proposal to normalize benefits from each proposal using each proposal’s net energy potential, and questions whether doing so may cause a larger project that confers greater overall benefits but is slightly less attractive on a \$/kWh basis to be rejected in favor of a smaller project that is cheaper on a \$/kWh basis, but offers fewer overall benefits.¹³⁶

The Commission is concerned that Hawaiian Electric has yet to demonstrate a viable and transparent method for identifying grid needs or for fairly examining and valuing prospective grid services that could be provided by CBRE Facilities. Therefore, the Commission directs Hawaiian Electric to remove the grid services bid evaluation criteria from its final Tranche 1 RFPs. To be clear, the Commission is open to the concept of using grid

¹³⁴Joint Comments at 11 (citing Order No. 37592 at 11-13).

¹³⁵See Joint Comments at 11.

¹³⁶See Consumer Advocate Comments at 39.

services in RFP evaluation, and would consider doing so as part of Phase 2, Tranche 2. Hawaiian Electric should consider developing and proposing a simplified proxy for grid services benefits that is informed by and linked to DER docket progress in Docket No. 2019-0323.

Moreover, the Commission remains concerned about Hawaiian Electric's proposal for price-related criteria to account for fifty-one percent (51%) and for non-price criteria to account for forty-nine percent (49%) of the total bid evaluation score. The relative subjectivity of the non-price criteria scoring could undermine developer faith and transparency in the bid evaluation process, and undermine the efficacy of an RFP process to support competitive pricing. This is especially concerning in the context of potential self-build projects. The Commission is not convinced that the non-price evaluation criteria is sufficiently transparent to justify weighting it so heavily. Therefore, consistent with Order No. 37592, the Commission directs Hawaiian Electric to use the same scoring criteria for the Phase 2 RFPs, as it did for the Stage 2 RFPs, i.e., weighting non-price factors at forty percent (40%) and price factors at the remaining sixty percent (60%).

Finally, the Commission directs the Independent Observer to participate in and document Hawaiian Electric's non-price criteria evaluation process.

E.

Interconnection

1.

General Matters

Hawaiian Electric divided its proposed improvements to the interconnection process into two categories: (1) quick wins that can be implemented before the commencement of Phase 2; and (2) continuous improvement processes that will take longer to develop and implement.¹³⁷

The Joint Parties are concerned that Hawaiian Electric's checklist of responses offers little or no means of verifying whether any of the claimed progress or quick wins have actually been achieved, or what the process will entail, including Hawaiian Electric's proposal for a "Simplified IRS" for small CBRE projects.¹³⁸ The Joint Parties are also concerned that Hawaiian Electric generically designated many recommendations as items to be implemented "before commencement of Phase 2" and areas of "Continuous Improvement," with little or no further details, timetables, or supporting documentation.¹³⁹ The Commission has

¹³⁷See March 30 CBRE Filings, Exhibit 1, Attachment 1.

¹³⁸See Joint Comments at 5-6.

¹³⁹Joint Comments at 6.

also received extensive comments and suggestions for improving the interconnection process broadly, in Docket No. 2021-0024.¹⁴⁰

Phase 2 cannot succeed without a transparent and timely interconnection process. Interconnection review can and does materially slow down CBRE projects, and has made certain projects unviable due to the costs of studies and unexpected interconnection upgrade costs. The Commission believes that some interconnection-related improvements can be implemented before Phase 2 RFPs are finalized, and others can be developed in the time between when Phase 2 RFPs are finalized and when selected projects begin the interconnection process. To that end the Commission directs Hawaiian Electric to implement short-term fixes as part of its finalized Phase 2 filings, and develop longer-term solutions to be ready when Phase 2 projects begin the interconnection process.

2.

Near-Term Solutions

Timelines. First, Hawaiian Electric must propose all significant details and an implementation timeline for each quick

¹⁴⁰See Blue Planet Foundation's and Hawaii Solar Energy Association's Comments, Docket No. 2021-0024, filed on March 25, 2021; Ulupono Initiative's Comments & Exhibit 1, Docket No. 2021-0024, filed on March 25, 2021.

win identified in the March 30 CBRE Filings, Exhibit 1, Attachment 1. At the latest, Hawaiian Electric must provide that detail with its revised Phase 2 filings. But the Commission urges Hawaiian Electric to provide these details sooner. Second, Hawaiian Electric must explicitly define and explain, in sufficient detail, what the "Simplified IRS" process will entail, as a part of its revised Phase 2 filings.

3.

Medium-Term Solutions

Independent Engineer. In addition, in response to suggestions from several Parties, the Commission will further evaluate the concept of an Independent Engineer to provide services to Hawaiian Electric and developers during the interconnection process.¹⁴¹ At this time, the Commission envisions using a contractual arrangement similar to the arrangement with the Independent Observer. This Independent Engineer may be charged with increasing interconnection transparency and predictability, reducing interconnection costs and providing a dispute resolution process for disputed interconnection costs and other disputes that may arise during the interconnection process. The Commission will

¹⁴¹See_Joint Comments at 6.

provide further guidance regarding an Independent Engineer in Docket No. 2021-0024.

In Docket No. 2021-0024, the Commission will also consider a comprehensive suite of improvements to the interconnection process to ensure that Hawaiian Electric has appropriate incentives to minimize interconnection costs, and adhere to timelines. The improvements under consideration include new incentives and penalties to ensure timely interconnection and data reporting requirements through the Performance-Based Regulatory framework and process modifications to increase transparency into the costs of interconnection, technology and filing requirements, and up-to-date grid conditions. The Commission intends to establish additional, explicit, and transparent interconnection timeline milestones that eliminate large gaps in time for the process and operate in symmetry - holding both the Companies and developers accountable for their respective obligations. This would allow Hawaiian Electric, developers, the Independent Engineer, the Commission, and the Consumer Advocate to know how the interconnection process for any particular CBRE project is progressing, including what interconnection step is currently underway, which party is responsible for completing the current step (i.e., Hawaiian Electric or the developer), exactly what that

step entails, and how long that party has to complete the step. This should operate like a chess clock, allowing each party to know whose turn it is, and how much time it has to make its move.¹⁴²

The Independent Engineer may also be available to resolve any disputes that may arise around these milestones. The Commission will consider expanding the Independent Engineer's role, both within and beyond CBRE (e.g., DER, and other RDG PPA projects), as part of Docket No. 2021-0024.

4.

Responsibility for Interconnection Costs

Hawaiian Electric proposes to bear certain interconnection costs, which it would then pass along to all ratepayers.¹⁴³ The Commission appreciates that Hawaiian Electric proposed this in a spirit of simplicity, and trying to comply with Order No. 37592 in a short timeframe. But the Commission cannot approve Hawaiian Electric's proposal to absorb certain interconnection costs for all CBRE projects. This proposal would establish a perverse incentive for both developers

¹⁴²Hawaiian Electric's IPP Interconnection Reported Metric, filed in Docket No. 2018-0088, would be a good starting point for this.

¹⁴³See March 30 CBRE Filings, Exhibit 1, at 2-3.

and Hawaiian Electric to maximize interconnection costs, thereby increasing CBRE costs for non-participating customers. Moreover, without a price signal to CBRE developers through interconnection cost responsibility, many CBRE Facilities may be located sub-optimally on the grid, without consideration for the interconnection-related upgrades that may be required. Given the importance of LMI projects and the goals of Act 100, the Commission will allow Companies to absorb certain interconnection costs for the LMI CBRE projects, as proposed. In Order No. 37796, the Commission also approved Hawaiian Electric's proposal to absorb certain interconnection costs for CBRE projects on Lanai.¹⁴⁴ For similar reasons, and due to the prevalence of LMI customers on Molokai, the Commission will approve Hawaiian Electric's proposal to absorb those same certain interconnection costs for CBRE projects on Molokai.

In sum, the Commission approves Hawaiian Electric's proposal to absorb certain interconnection costs for CBRE projects on Molokai and Lanai, and for dedicated LMI projects. The Commission denies Hawaiian Electric's proposal to absorb those same certain interconnection costs for the remainder of CBRE projects. The Commission will monitor this implementation

¹⁴⁴See Order No. 37796 at 15.

carefully, and based on results in Tranche 1, may consider expanding this practice in Tranche 2.

F.

Land Availability

1.

Preselected Sites

The Consumer Advocate encourages Hawaiian Electric to identify potential sites and develop a catalog of pre-selected sites, with prescribed sizes and technologies, and interconnection studies already in hand, which would facilitate CBRE development.¹⁴⁵ The Consumer Advocate also urges Hawaiian Electric to engage in early community outreach to determine community interest in potential renewable energy development. If supported by the community, Hawaiian Electric could begin potential interconnection studies and facilities could be started as a possible pool of sites to bid on and develop.¹⁴⁶

The Commission generally supports the Consumer Advocate's proposal and recommends that Hawaiian Electric identify potential developer sites and develop a catalog of

¹⁴⁵See Consumer Advocate Comments at 18.

¹⁴⁶See Consumer Advocate Comments at 15-16.

pre-selected sites where it believes CBRE facilities should be located. If Hawaiian Electric develops a list of suitable sites, it should also clearly identify what development would be necessary for these sites and explain whether a developer has the option to buy or lease the land. If successful, such a catalog could greatly assist developers and help drive down transaction and interconnection costs. Hawaiian Electric could integrate this catalog into its existing locational value maps, accompanying additional improvements to the locational value maps which should be developed and considered in Docket No. 2021-0024. But the Commission is aware that this approach could also inflate land costs or drive speculation. Finally, because ownership rights can change, if Hawaiian Electric proceeds with this approach, it should clearly date any information about land ownership, and encourage developers to perform their own due diligence.

2.

Transfer of Site Control

The Consumer Advocate proposes that, if a developer will not move forward with a project, site control be transferred to the Companies because it could mitigate risks of cost-shifting and

stranded investments.¹⁴⁷ Hawaiian Electric responds that to implement the Consumer Advocate's proposal, CBRE developers would need to negotiate their site control agreements with property owners to include provisions that allow for transfer of the site to the Companies, which property owners would likely not be amenable to, and which would make it more difficult for the developer to reach an agreement with its project lender.¹⁴⁸ To address the Consumer Advocate's concerns of stranded investment risk, Hawaiian Electric indicated that the interconnection facilities will be "system upgrades" and will not result in stranded assets if a CBRE project fails, as the upgrades could be utilized for future additional projects.¹⁴⁹

The Commission is very concerned that requiring that site control be transferred to Hawaiian Electric would increase developer risk, add program complexity, and could harm developers' ability to reach an agreement with landowners and lenders. Therefore, the Commission declines to adopt the Consumer Advocate's proposal.

¹⁴⁷See Consumer Advocate Comments at 14.

¹⁴⁸See Hawaiian Electric Response at 4.

¹⁴⁹See Hawaiian Electric Response at 4.

3.

Molokai Palaau Site Restriction

The Joint Parties oppose Hawaiian Electric's proposed restriction that CBRE projects over 250 kW on Molokai must be located on the Hawaiian Electric-owned parcel adjacent to the Palaau power station.¹⁵⁰ Acknowledging that developing projects on Molokai presents unique challenges, the Commission also believes that allowing for more expansive site options, beyond the Palaau site, could improve the number and quality of CBRE bids on Molokai. Therefore, the Commission directs Hawaiian Electric to remove site restrictions for projects on Molokai, so that projects larger than 250 kW have the option to be sited on non-Company-owned land.

G.

Guaranteed Commercial Operations Dates

Hawaiian Electric has proposed guaranteed commercial operations dates of either August 31, 2026, or November 30, 2026, for RFP projects.¹⁵¹ The Commission urges Hawaiian Electric to make all reasonable efforts to bring as many Phase 2 CBRE projects as possible online as soon as reasonably possible. At a minimum,

¹⁵⁰See Joint Comments at 12.

¹⁵¹See March 30 CBRE Filings, Exhibit 1, Attachment 3.

Hawaiian Electric must develop and employ price evaluation criteria that aggressively promote projects with earlier guaranteed commercial operations dates. Hawaiian Electric may also employ non-price evaluation criteria to promote projects with earlier guaranteed commercial operations dates. In addition, Hawaiian Electric must clearly identify required guaranteed commercial operations dates for small projects, and such deadlines should be as much earlier than 2026 as is reasonably possible.

H.

Next Steps

CBRE Phase 2, Tranche 1 will commence upon Commission approval of final CBRE tariffs and RFPs. The Commission therefore directs Hawaiian Electric to modify its proposed Phase 2, Tranche 1 CBRE tariffs, consistent with the guidance and directives in this Order, and file those revised tariffs and RFPs by August 25, 2021. Such tariffs and RFPs shall be approved automatically 15 days after their filing, unless the Commission orders otherwise.

Likewise, consistent with the directives in this Order, and with Order No. 37796 and Order No. 37832, Hawaiian Electric shall file its Rule 29 tariff for Lanai by August 25, 2021. The Rule 29 tariff for Lanai shall be approved automatically 15 days after its filing, unless the Commission orders otherwise.

As discussed in the Molokai Letter, and in Section 3.C.2., above, Hawaiian Electric shall file its revised draft Molokai RFP for CBRE Phase 2 no later than 20 days after it holds the Molokai meeting.

IV.

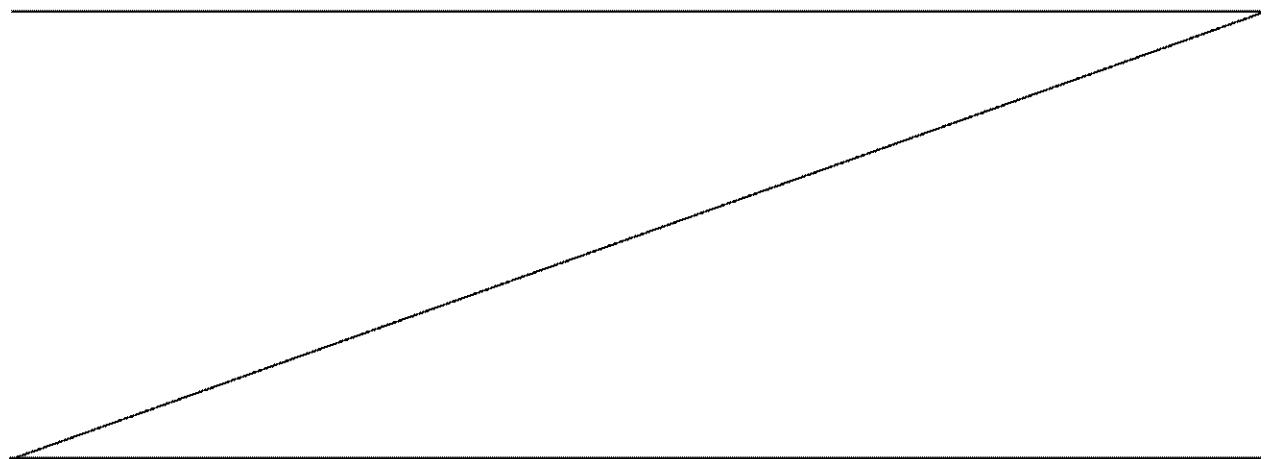
ORDERS

THE COMMISSION ORDERS:

1. The March 30 CBRE Filings are approved, subject to the required modifications and guidance set forth in this Order.

2. With the exception of Molokai, Hawaiian Electric shall file its final RFPs and Rule 29 tariffs for CBRE Phase 2, including those for Lanai referenced in Order No. 37796 and Order No. 37832, by August 25, 2021.

3. Hawaiian Electric shall file its revised draft Molokai RFP for CBRE Phase 2 no later than 20 days after it holds the Molokai meeting, as set forth in Section 3.2.C., above.




4. Hawaiian Electric's final RFPs and Rule 29 tariffs shall be approved 15 days after they are filed, unless the Commission orders otherwise.

DONE at Honolulu, Hawaii JULY 27, 2021.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
James P. Griffin, Chair

By 
Jennifer M. Potter, Commissioner

By 
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:


Mike S. Wallerstein
Commission Counsel

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CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing Order was served on the date it was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.

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