

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Requests of )  
)  
HAWAIIAN ELECTRIC COMPANY, INC., ) DOCKET NO. 2017-0352  
HAWAII ELECTRIC LIGHT COMPANY, INC., )  
AND MAUI ELECTRIC COMPANY, LIMITED )  
)  
To Institute a Proceeding )  
Relating To Competitive )  
Procurement Of Dispatchable )  
and Renewable Generation. )  
\_\_\_\_\_ )

ORDER NO. 38479

APPROVING THE HAWAIIAN ELECTRIC COMPANIES'  
FINAL STAGE 3 REQUEST FOR PROPOSALS  
FOR HAWAII ISLAND WITH MODIFICATIONS  
AND ISSUING GUIDANCE ON THE PROPOSED STAGE 3  
REQUESTS FOR PROPOSALS FOR OAHU AND MAUI

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REQUESTS FOR PROPOSALS FOR OAHU AND MAUI

The Public Utilities Commission ("Commission"),  
by this Order, approves, with modifications, the Hawaiian Electric  
Companies'<sup>1</sup> Stage 3 Requests for Proposals ("RFP") for  
Hawaii Island ("Hawaii Island Stage 3 RFP"), filed on

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<sup>1</sup>The Parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LTD. ("MECO") (collectively, "Hawaiian Electric" or "the Companies"); and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 16-601-62(a).

May 31, 2022,<sup>2</sup> in connection with the procurement process to acquire new renewable energy and grid services for Hawaii Island. The Companies shall file the Final Stage 3 RFP for Hawaii Island, consistent with the Commission's direction set forth in this Order within 30 days. The Final Stage 3 RFP for Hawaii Island shall be approved for issuance automatically ten (10) days after it is filed, unless the Commission orders otherwise.

Additionally, the Commission, by this Order, directs the Companies to file the Near-term Grid Needs Assessments ("Near-term GNAs") for Oahu<sup>3</sup> and Maui within 30 days of this Order and host a technical conference to discuss the issues related to the Stage 3 RFPs for Oahu and Maui and their respective Near-term GNAs no later than one week following the filing of the Near-term GNAs.

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<sup>2</sup>See Companies' "Third Draft of Stage 3 Request for Proposals for Hawaii Island, Books 1 through 4," filed on May 31, 2022.

<sup>3</sup>See footnote 68, *infra*, for further discussion of the draft Near-term Oahu GNA filed in Docket No. 2018-0165 (Integrated Grid Planning ("IGP")).

I.

BACKGROUND

A.

Procedural History

On October 6, 2017, the Commission opened the subject docket to receive filings, review approval requests, and resolve disputes, if necessary, related to the HECO Companies' plan to acquire dispatchable firm generation and new renewable energy generation.<sup>4</sup> At the time, the Commission stated that it expected that procurement of new dispatchable and renewable generation through this round of solicitations will generally adhere to the Framework for Competitive Bidding,<sup>5</sup> but the Commission may exercise its discretion to expedite and/or amend certain parts of the Framework to accommodate time constraints that may apply to the potential commercial transactions under these solicitations.<sup>6</sup>

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<sup>4</sup>Order No. 34856, "Opening the Docket," filed on October 6, 2017 ("Order No. 34856"). The aforementioned HECO Companies' June 6, 2016 and January 6, 2017 letters requesting that the Commission open the docket were included as attachments to Order No. 34856.

<sup>5</sup>See Docket No. 2003-0372, Instituting a Proceeding to Investigate Competitive Bidding for Generating Capacity in Hawaii, Decision and Order No. 23121, Exhibit A - Framework for Competitive Bidding ("Framework"), filed on December 8, 2006.

<sup>6</sup>Order No. 34856 at 1.

On February 27, 2018, the Companies filed their Final Variable Requests for Proposals with the Commission.<sup>7</sup>

Following the bid selection process pursuant to the filing of the Companies' Final Variable Requests for Proposals, as overseen by the Independent Observers ("IOs"),<sup>8</sup> the Companies filed seven applications requesting approval of power purchase agreements ("PPAs") on December 31, 2018.<sup>9</sup>

On March 25, 2019, the Commission approved six PPAs for grid-scale, solar-plus-storage projects for Oahu, Maui, and Hawaii Island, which in total, represented approximately 247 MW of solar energy and 988 MW of storage, and with costs that range from \$0.08 to \$0.10 per kilowatt-hour.

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<sup>7</sup>See Companies "Final Variable Requests for Proposals, including Exhibits 1-6; and Certificate of Service," filed on February 27, 2018.

<sup>8</sup>On January 12, 2018, the Commission issued Order No. 35224, "Providing Guidance on the Hawaiian Electric Companies' Proposed Requests for Proposals for Dispatchable and Renewable Generation," which appointed Navigant Consulting, Inc. ("Navigant") as the IO for the Maui Variable RFP and Maui Firm RFP, and Bates White, LLC ("Bates White") as the IO for the Oahu and Hawaii Island Variable RFPs.

<sup>9</sup>See Docket Nos. 2018-0430, 2018-0431, 2018-0432, 2018-0433, 2018-0434, 2018-0435, and 2018-0436.

On August 15, 2019, the Commission approved the Companies' Proposed Final Stage 2 Renewable and Grid Services RFPs with modifications.<sup>10</sup>

On September 15, 2020, the Companies filed eight applications<sup>11</sup> requesting approvals of PPAs and two subsequent applications on February 16, 2021,<sup>12</sup> and January 14, 2022,<sup>13</sup> respectively.

On December 30, 2020, the Commission approved three PPAs for grid-scale, solar-plus-storage projects under the Renewable Dispatchable Generation contract ("RDG PPA"). Subsequently, the Commission approved six additional RDG PPAs from the projects selected in the Stage 2 RFP. One project from the Stage 2 RFP remains pending, and three of the approved RDG PPAs were declared null and void. The approved and active RDG PPAs under development from Stage 2 represent approximately 112 MW of solar capacity paired with storage and 185 MW of stand-alone

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<sup>10</sup>See Order No. 36474, "Approving the Hawaiian Electric Companies' Proposed Final Phase 2 Requests for Proposals, With Modifications," filed on August 15, 2019.

<sup>11</sup>See Docket Nos. 2020-0136, 2020-0137, 2020-0138, 2020-0139, 2020-0140, 2020-0141, 2020-0142, and 2020-0143.

<sup>12</sup>See Docket No. 2021-0026.

<sup>13</sup>See Docket No. 2022-0007.

battery storage, while the pending project includes an additional 42 MW of solar capacity paired with storage.

On July 15, 2021, the Companies filed their draft Hawaii Island Near-Term GNA.<sup>14</sup>

On October 15, 2021, the Companies filed their first draft of the Stage 3 RFPs for Hawaii Island.<sup>15</sup>

On November 19, 2021, the Commission received stakeholder feedback on the Companies' Stage 3 RFP draft for Hawaii Island.<sup>16</sup> Subsequently, the Companies filed a letter on November 22, 2021, stating that the scope of the Stage 3 RFP would be modified pursuant to the withdrawal of a Stage 2 project, but that the Companies did not intend to make other revisions to the Stage 3 RFP.<sup>17</sup>

On January 19, 2022, the Companies filed a letter addressing various areas where revisions were incorporated into

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<sup>14</sup>Companies' "Draft 'Hawaii Island Near Term Grid Needs Assessment,'" filed on July 15, 2021.

<sup>15</sup>Companies' "Development of Stage 3 Request for Proposals for Hawaii Island, Books 1 through 4," filed on October 15, 2021.

<sup>16</sup>See four Public Comments and one "Other" filing, filed on November 19, 2021, in the instant docket.

<sup>17</sup>Letter from R. Matsushima to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Development of Stage 3 RFP for Hawaii Island," filed on November 22, 2021.

the Stage 3 RFP for Hawaii Island or considered but not incorporated.<sup>18</sup> These areas reflected many of the concerns raised by stakeholders in their public comments.

On January 20, 2022, the Commission filed a letter identifying numerous issues raised by the Commission and by stakeholders in public comments for the Companies to consider incorporating into its next iteration of the Stage 3 RFP materials for Hawaii Island.<sup>19</sup>

On February 11, 2022, the Companies filed a letter proposing next steps for development of the Stage 3 RFP for Hawaii Island, including hosting a technical conference, which was held on April 15, 2022.<sup>20</sup>

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<sup>18</sup>Letter from R. Matsushima to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Company's Comments for Stage 3 RFP for Hawaii Island," filed on January 19, 2022 ("Companies' January 19 Letter").

<sup>19</sup>Letter from Commission to R. Matsushima re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Request that Hawaiian Electric Consider Further Revisions to the Draft Stage 3 Request for Proposals for Hawaii Island," filed on January 20, 2022 ("Commission's January 20 Letter").

<sup>20</sup>Letter from R. Matsushima to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Next Steps for Stage 3 Hawaii Island RFP Following Commission Guidance," filed on February 11, 2022.



On February 18, 2022, the Commission filed a letter directing the Companies to develop the materials for Stage 3 RFPs for Oahu and Maui and to incorporate into these drafts the revisions and considerations that had been contemplated to date in the development of the Stage 3 RFP draft for Hawaii Island.<sup>21</sup> The Companies responded with a letter filed on March 10, 2022, stating their inclination to await the results from the first round of the IGP process prior to issuing the Stage 3 RFPs for Oahu and Maui.<sup>22</sup> The Commission replied by letter on March 23, 2022, acknowledging the intent of the Companies' inclination, but reiterating the Commission's directive to develop the Stage 3 RFP materials prior to the completion of the first round of IGP due to the urgency of the reliability needs and the statuses of the Stage 1 and 2 projects under development.<sup>23</sup>

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<sup>21</sup>Letter from Commission to R. Matsushima re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Guidance for Development of Stage 3 Renewable and Dispatchable Renewable Generation Request for Proposals on Oahu and Maui," filed on February 18, 2022.

<sup>22</sup>Joint Letter from R. Matsushima and M. Asano to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Development of Stage 3 RFPs on Oahu and Maui," filed on March 10, 2022.

<sup>23</sup>Letter from Commission to R. Matsushima re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Further Guidance for Development of Stage 3 Renewable and

On March 18, 2022, the Companies filed a second draft of the Stage 3 RFP for Hawaii Island, including the changes pursuant to Companies' January 19 Letter and consideration of the recommendations in the Commission's January 20 Letter.<sup>24</sup> Following this filing, the Commission received additional public comments on the draft Hawaii Island Stage 3 RFP filed between April 8, 2022, and April 22, 2022.<sup>25</sup>

On May 2, 2022, the Companies filed the first draft Stage 3 RFPs seeking firm renewable and variable resources on Oahu and Maui.<sup>26</sup> The Commission received public comments in response to these Stage 3 RFP drafts between June 1, 2022, and June 7, 2022.<sup>27</sup>

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Dispatchable Generation Request for Proposals on Oahu and Maui," filed on March 23, 2022.

<sup>24</sup>Companies' "Second Draft of Stage 3 Request for Proposals for Hawaii Island, Books 1 through 4," filed on March 18, 2022.

<sup>25</sup>See Public Comments filed on April 8, 2022, April 11, 2022, April 13, 2022, and April 22, 2022.

<sup>26</sup>Companies' "Draft Stage 3 Oahu and Maui RFPs and Model Contracts, Books 1 through 5," filed on May 2, 2022.

<sup>27</sup>See Public Comments and "Other" filing, filed on May 26, 2022, June 1, 2022, June 2, 2022, June 3, 2022, and June 7, 2022.

On May 31, 2022, the Companies filed a third draft of the Stage 3 RFP for Hawaii Island,<sup>28</sup> including, among other revisions, the Updated Near-Term GNA for Hawaii Island, which was presented at the technical conference on April 15, 2022, and filed on April 21, 2022.<sup>29</sup>

On June 17, 2022, the Companies shared their Near-term GNA for Oahu with the stakeholder technical working group members in the IGP docket via email, and requested stakeholder feedback by July 8, 2022.

B.

Competitive Bidding Process

By Decision and Order No. 23121, filed on December 8, 2006, in Docket No. 03-0372, the Commission adopted the Framework to govern competitive bidding as a mechanism for acquiring new energy generation in Hawaii. Under the Framework, competitive bidding is the required mechanism for acquiring a future generation resource or a block of generation resources,

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<sup>28</sup>Companies' "Third Draft of Stage 3 Request for Proposals for Hawaii Island, Books 1 through 4," filed on May 31, 2022 ("Third Draft Hawaii Island Stage 3 RFP").

<sup>29</sup>Letter from M. Asano to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation, "Updated Grid Needs Assessment for Hawaii Island," filed on April 21, 2022.

subject to certain conditions and exceptions.<sup>30</sup> The process of acquiring future generation resources through a competitive bidding process is described in the Framework.

As a general matter, the "primary role" of the Commission in a competitive bidding process is to ensure that each competitive bidding process "is fair in its design and implementation so that selection is based on the merits;" that projects selected through a competitive bidding process are consistent with the utility's PSIPs or other current planning documents; that the utility's actions represent prudent practices; and that throughout the process, the utility's interests are aligned with the public interest, even where the utility has dual roles as designer and participant.<sup>31</sup>

To assist the Commission, the Framework contemplates the use of an IO in a variety of situations, as the Commission deems beneficial and necessary.<sup>32</sup> The Commission has appointed Bates White as the IO for the Companies' Stage 3 RFPs. The IO has numerous obligations under the Framework, which include monitoring all steps in the competitive bidding process, including the

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<sup>30</sup>Framework, Part II.A.3, at 3-4.

<sup>31</sup>Framework, Part III.B.1, at 12. The original Framework language made reference to the utilities' "Approved [Integrated Resource Plan]," rather than to the PSIPs.

<sup>32</sup>Framework, Part III.C.1, at 13.

communications between the utility and bidders; certifying to the Commission at various stages of the competitive bidding process that the utility's judgment creates no unearned advantage for the utility; advising the utility on its decision-making during the various stages of the competitive bidding process; and reporting to the Commission on its monitoring results during each stage of the process.<sup>33</sup> Due to its prior experience in the Stage 2 RFP and subject matter expertise, the IO also served in consultation to the Commission in its review of the Stage 3 RFP materials for Hawaii Island, Oahu, and Maui.

## II.

### STAKEHOLDER FEEDBACK

The Commission considered public comments submitted by various stakeholders, which included developers, public advocacy groups, and the State Energy Office. For the ease of reviewing specific public comments, the table below lists the stakeholders that provided public comments, the date of their public comment submission, and the page count of their public comment.

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<sup>33</sup>Framework, Part III.C.2, at 13-15.

<b>Stakeholder</b>	<b>Date of Comment</b>	<b>Page Count</b>
Clearway Energy Group ("Clearway")	November 19, 2021	7
Innergex Renewables USA ("Innergex")	November 19, 2021	5
Longroad Energy ("Longroad")	November 19, 2021	7
Pacific Resource Partnership	November 19, 2021	4
AES Clean Energy ("AES")	November 19, 2021	5
Longroad	April 8, 2022	5
Innergex	April 11, 2022	5
Clearway	April 13, 2022	4
Longroad	April 22, 2022	3
Clearway	April 22, 2022	4
AES	April 22, 2022	4
Life of the Land	May 26, 2022	12
Clearway	June 1, 2022	6
Ameresco	June 1, 2022	10
Longroad	June 2, 2022	6
AES	June 2, 2022	9
Skog Rasmussen LLC	June 2, 2022	4
Life of the Land	June 2, 2022	6
Plus Power LLC	June 3, 2022	6
Hawaii State Energy Office	June 3, 2022	10
Hawaii Clean Power Alliance	June 3, 2022	8
Innergex	June 7, 2022	6
Ameresco / Bright Canyon Energy	June 17, 2022	7
AES	June 24, 2022	4

### III.

#### DISCUSSION

As previously stated in the order opening this docket:<sup>34</sup>

1. This docket is intended to receive filings, review approval requests, and resolve disputes, if necessary, related to the HECO Companies' plan to acquire renewable generation and grid services on the islands of Oahu, Hawaii, and Maui.

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<sup>34</sup>Order No. 34856 at 4-5.

2. The subject docket is intended to serve as a repository for the requisite filings and a forum for resolving approval requests and disputes, and any amendments for this proceeding adopted by the Commission, if necessary.

3. The Commission does not consider the subject docket to be a contested case proceeding.

4. All matters that may require Commission approval related to the resulting RFPs, with the exception of the Commission's review and adjudication of any PPAs that may arise from the resulting RFP, will be resolved in this docket.

5. The Commission has appointed an IO to serve as the monitor of the Stage 3 competitive bidding process and to report on the progress and results thereto to the Commission.

6. The Commission is also initiating an RFP for an Independent Engineer ("IE") concurrently with the filing of this Order to serve as a technical expert and impartial reviewer of the technical aspects of the RFP, particularly with regards to the interconnection process and project design. The role and administration of the IE are described in detail in this Order.

1.

Commission Direction Regarding Issuance of the  
Final Stage 3 RFP for Hawaii Island

Based on its review of the Third Draft Hawaii Island Stage 3 RFP, as well as the public comments submitted in the instant docket related to the Stage 3 RFPs, and in consultation with the IO, the Commission approves the Companies' Stage 3 RFPs, subject to the modifications required above, and those discussed below:

A.

Modifications

i.

State of Project Development and Schedule Evaluation Criteria

One non-price criterion for the Stage 3 RFP evaluates the State of Project Development and Schedule and carries double weight among the non-price evaluation criteria. This criterion will evaluate the project schedule, identified risks, and applicable Investment Tax Credit eligibility, as well as the reasonableness of high-level project costs, including costs related to interconnection.<sup>35</sup>

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<sup>35</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 4.4.2, at 46-47.



The Commission agrees with the double-weighting of the criterion in the interest in pursuing projects with higher likelihoods of reaching Guaranteed Commercial Operations Dates ("GCODs") and avoiding schedule and budget risks. The Commission echoes the concerns raised by stakeholders regarding developers' ability to accurately estimate costs related to interconnection. In light of this, the Commission directs the Companies not to deduct points from a proposal based on its interconnection-related cost estimates.

ii.

Community Benefits Package

The RFP includes a requirement for a community benefits package ("CBP"), which requires that the Proposer specify a dollar amount of funds that it will commit annually toward directly addressing needs identified in the host community. These funds can either be used for actions and/or programs aimed at specific needs or can be committed to a community-based 501(c)(3) not-for-profit organization to directly address such needs.<sup>36</sup>

Proposers are provided the option of utilizing a non-profit organization to administer and disburse community benefits. If Proposers choose to exercise this option,

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<sup>36</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 2.

community members from the same census tract as the project will be able to apply to the non-profit for grants toward community projects.<sup>37</sup>

The RFP outlines an annual minimum commitment of \$3,000 per MW, with this minimum capped at \$200,000 per year.<sup>38</sup> In addition to this minimum requirement, Proposers would receive additional points if they committed to larger community benefits packages and/or offered other community benefits, such as provision for using local labor and paying prevailing wages, creating jobs, or improving infrastructure.<sup>39</sup>

The Commission appreciates the efforts of the Companies to incorporate stakeholder feedback, including by providing the option for direct funding of projects and/or actions to address community needs and by granting preference for projects that provide broader community benefits, beyond the minimum commitment of funds.<sup>40</sup>

The Commission finds that capping the minimum commitment of funds for the CBP could provide an advantage for larger projects, while potentially reducing the proportionality between

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<sup>37</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 3.

<sup>38</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, at 45.

<sup>39</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, at 46.

<sup>40</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, at 46.

community impacts and benefits. Therefore, the Commission directs the Companies to remove the cap on the minimum commitment of funds for CBPs.

The Commission believes that consultation with the host community is central in designing a community benefits package that aptly addresses the needs specific to host communities. Further, the Commission finds that the appropriate scale of the CBP is dependent on expected community impacts. For example, CBPs close to the minimum requirement may be sensible for projects with little impact to surrounding areas, while projects that are to be located in low- to moderate-income ("LMI") communities, close to residential areas, and so forth, should be encouraged to make commitments above the minimum. For this reason, the Companies should revise the non-price criteria to clarify that any proposed CBP will be measured relative to such community impacts and evaluated accordingly.

The Commission notes potential challenges with directing community benefits strictly based on census tracts. The Commission recognizes that impacts of projects are likely to stretch beyond census tract boundaries in certain circumstances, and that directly addressing host community benefits may involve disbursing some amount of funds to entities in nearby census tracts. For this reason, the Commission directs the Companies to add flexibility to the census tract requirement to allow for case-by-case review of

CBP components that may fall outside of, or stretch beyond, the census tract of the proposed project.

iii.

Net Energy Potential

Multiple stakeholders stated that throughout the project development stage, design changes can create efficiencies in energy production leading to an underestimated Net Energy Potential ("NEP") for a project.<sup>41</sup> Without an opportunity to update the NEP of a project after bid submission, there is no economic incentive to pursue these efficiencies.<sup>42</sup>

The Commission believes that it is reasonable to allow upward adjustments to a project's NEP and accordingly orders the Companies to allow a one-time adjustment in NEP up to five percent above the RFP NEP prior to COD of the project. The Companies may allow for an increase in lump sum payment pursuant to the updated NEP but will not allow a change in the project's unit price. The IE may assist in verifying the requested increase to the NEP.

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<sup>41</sup>Public Comment filed by Clearway on November 19, 2021, at 4 and Public Comment filed by Longroad on November 19, 2021, at 3.

<sup>42</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 3.10.1, at 46-47.

Pro Forma Requirement

The Companies maintain the need for Proposers to provide project financial information, including a pro forma cashflow for each submitted variation.<sup>43</sup> The Companies state that this information would be beneficial for a robust evaluation and for cost tracking purposes across other dockets.<sup>44</sup>

The Commission notes that stakeholder feedback reflected discomfort with the requirement to provide a pro forma cashflow to the Companies.<sup>45</sup> The Commission also does not find that past evaluations have been hindered by the absence of this requirement. To the extent that this information is deemed necessary, it can be requested by the Commission or by the Consumer Advocate, as has been done in previous proceedings. Thus, the Commission directs the Companies to remove the pro forma requirement.

In place of this requirement, the Commission finds that it would be beneficial to require that Proposers provide interconnection cost estimates prior to bid submission.

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<sup>43</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 4.

<sup>44</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 4.

<sup>45</sup>Public Comment filed by Longroad Energy on April 8, 2022, at 2, Public Comment filed by Clearway on April 13, 2022, at 3, Public Comment filed by Innergex on April 11, 2022, at 2, and Public Comment filed by AES on April 22, 2022, at 2.

This modification is elaborated further in Section B of this Order, which discusses matters related to the utilization of an IE.

v.

Non-Negotiable Sections of PPA

The Companies propose maintaining the three non-negotiable sections that were included in the Stage 2 RFPs - Performance Standards, the portion of the Lump Sum Payment specified for energy storage used for determining liquidated damages, and the Development Period Security and Operating Period Security specified amounts.<sup>46</sup> The Companies state that these components are essential to ensuring that the projects meet the RFP requirements and deliver full benefits to customers.<sup>47</sup>

The Commission agrees that maintaining certain non-negotiable provisions will help to ensure that projects are suitable and beneficial to customers, while also reducing administration time and costs. The Commission is amenable to retaining non-negotiability for the lump sum payment and the development and operating period security specified amounts.

However, the Commission believes that the Performance Standards should be made negotiable, as there may be

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<sup>46</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 5.

<sup>47</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 5.

necessary changes to align, for example, with different technology types. Therefore, the Companies are directed to make the Performance Standards negotiable by allowing proposed revisions related to technological specifications that may vary among projects while maintaining fairness and equality in terms of the incentives to provide sufficient commitment of services.

vi.

#### Grid Needs Assessment

The scope of the Stage 3 RFP for Hawaii Island underwent multiple iterations pursuant to updates to the Near-term GNA. The most recent Near-term GNA included a reduction in the capacity target from 95 MW to 63 MW, and an increase in the energy target from 206 GWh to 325 GWh.<sup>48</sup> The updated Near-term GNA states that the capacity need can be met by the variable resources that the model selected in the Base Scenario but is also met in the Renewable Firm Scenario. The RFP states that approximately 60 MW of generation is sought on the east side of Hawaii Island to "bring the available resource in East and West Hawaii into balance."<sup>49</sup>

The Commission is concerned with the geographic consideration insofar as it is vague, it is not substantiated by

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<sup>48</sup>Updated Grid Needs Assessment for Hawaii Island at 2.

<sup>49</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 2.

the updated Near-Term GNA, and it inhibits Proposers from submitting optimally-sized and -located projects. Furthermore, the Companies state that the geographic considerations "may result in the Companies not selecting the lowest cost project or portfolio."<sup>50</sup> The Commission is concerned that this statement creates an unfair opportunity for the Companies to consider a set of projects that may be higher cost but would satisfy a set of geographic requirements that are not clearly defined.

To address its concerns, the Commission directs the Companies to (1) clarify the basis for the 60 MW capacity sought on the east side of Hawaii Island, including the underlying studies, (2) clarify how the Companies would evaluate a portfolio of bids that are only located on the west side, (3) clarify how the Companies would evaluate a portfolio of bids wherein all of the projects bid on the west side are priced lower than the projects bid on the east side, and (4) including the previous clarifications, provide clearer guidance to Proposers on how the Companies will evaluate a portfolio of bids that respond to the grid needs and minimize costs. The Companies must communicate these evaluation techniques with the intent of signaling grid needs and equipping Proposers with the knowledge to craft optimal bids.

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<sup>50</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 2.



Available Sites

With regards to project siting, the Companies state that:

*Projects must either interconnect to the Hawaii Electric Light System (1) at the 69 kV transmission-level via the transmission lines identified in Section 2.2.1 and construct a new substation to the 69 kV transmission-level line or alternatively, (2) via one of five existing Company substations the Company will offer available space at for interconnection consideration . . .<sup>51</sup>*

The Companies offer 18 transmission lines for interconnection, six of which are located on the east side and twelve on the west side, and state that Proposers must inquire about the hosting capacities available on any of the substations or transmission lines identified.<sup>52</sup> Furthermore, the Companies state that "Proposers may propose project sizes greater than potential available MW capacities[,]" but these proposals will be responsible for costs associated with transmission system upgrades necessary to host the project.<sup>53</sup> The Commission does not find it reasonable to restrict interconnection to certain substations or

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<sup>51</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 1.2.8, at 10.

<sup>52</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 2.2.1, at 16-17.

<sup>53</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 2.2.1, at 17.

transmission lines if the option exists for a proposer to include the cost of transmission network upgrades into their proposal.

The Commission so orders the Companies to clarify whether the available sites are recommendations or requirements for interconnection of the project. Furthermore, if the Companies intend for these available sites to restrict the location of the proposals, the Companies must provide a justification for the lines that were excluded and for the inclusion of twice the number of lines on the west side as compared to the east side despite the stated preference for projects on the east side.<sup>54</sup>

Lastly, the Commission orders the Companies to utilize the IE, once hired, to provide verifications of the hosting capacity results provided to Proposers who request this information. The Commission also orders the Companies to provide the hosting capacity results to the Commission and the IO for review and documentation prior to the hiring of the IE. The Commission will instruct the Companies as to whether it should continue to provide these results directly to the Commission and IO after the IE is instated.

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<sup>54</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 2.

Carbon Emissions Analysis

The Companies have included a requirement for Proposers to respond to a series of questions that will help to provide a high-level estimate of carbon emissions and greenhouse gas ("GHG") impacts.<sup>55</sup>

The Commission supports the inclusion of this component, which involves first compiling high-level estimates of emissions, to be used in the evaluation process, before conducting a detailed lifecycle analysis after selection.<sup>56</sup>

The Commission notes that it is unclear exactly how this high-level estimate will translate into scoring of the non-price criterion. The Companies are directed to clarify how they will conduct the evaluation of this criterion, including for different technologies, and how it will compare bids between proposals involving identical technologies and different technologies. Additionally, the Commission will scrutinize the high-level carbon emissions estimates in comparison with results of the full GHG analyses to determine the validity of these preliminary estimates and whether there are indications that they were artificially low. If these analyses diverge substantially, the Commission will

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<sup>55</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 3-4.

<sup>56</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 1, at 4.

consider future modifications to improve these estimates and terms and/or remedy underestimation.

Lastly, the Companies are directed to consider modifications to this non-price criterion to mitigate underestimation of high-level emissions analyses. The Companies may consider a modification that would require Proposers to consider design changes or, at minimum, propose a plan and, as needed, contribute funds to remediate any impacts caused by changes in assumptions or underestimation of preliminary figures submitted in the bid's Carbon Emissions Questionnaire.<sup>57</sup> The Companies are also directed to notify Proposers that the Commission may request further explanation of the assumptions and analyses utilized, if the bid is selected, to ensure consistency with the full GHG analysis.

ix.

Previous Performance Scoring Criterion

The RFP proposes a new Previous Performance scoring criterion, which would reduce points for infractions in the past five years by Proposers, such as those related to events in the procurement process, bidding process, and performance of other

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<sup>57</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Appendix B, at 29-33.

projects.<sup>58</sup> Unlike the 11 non-price criteria, which generally score projects on a scale of 1 to 5, this criterion would deduct points, ranging from 0 to 10 points, from the total non-price score.<sup>59</sup> The Commission finds that this mechanism may be helpful in ensuring that selected Proposers are equipped and motivated to deliver on proposal commitments.

The Commission observes that the eligibility requirements also include an evaluation of previous performance but carry a greater penalty insofar as a proposer is not eligible to participate in the RFP if the proposer, its parent company, or an affiliate has:

- a. *Defaulted on a current contract with the Company, unless such default was cured by the contracting Proposer, parent company, or affiliate in an expeditious manner to the satisfaction of the Company, or*
- b. *had a contract terminated by the Company, which was not reinstated or otherwise superseded by a subsequent contract, or*
- c. *any pending litigation in which the Proposer, parent company, or affiliate has made claims against the Company, which is not subject of a settlement agreement that is currently in effect.*<sup>60</sup>

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<sup>58</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4 at 43-44.

<sup>59</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4 at 43, n.40.

<sup>60</sup> Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, at 37.

The Commission believes that with the new mechanism for evaluating past performance of the Proposers, these three eligibility requirements are better included among the other infractions in this new criterion. The Commission so directs the Companies to add new infractions for these three circumstances and detract two points each from a Proposer's non-price score for these infractions. Accordingly, the Companies are also directed to remove the first eligibility requirement which considers these three circumstances.

For the remaining infractions, the Commission recognizes feedback received in the public comments noting that there are sometimes legitimate reasons for infractions that are outside of the control of the Proposer and that Proposers should be provided with an opportunity to review identified infractions.<sup>61</sup> The Commission finds that a case-by-case review process would add to the fairness, consistency, and transparency of this evaluation criterion.

The Companies are directed to revise the RFP to establish a case-by-case review process for the Past Performance of Proposers. First, the Companies should notify bidders of any potential deductions and provide them with the opportunity to

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<sup>61</sup>Public Comment filed by Longroad Energy on April 8, 2022, at 2-3, and Public Comment filed by AES on April 22, 2022, at 2.

respond with a written explanation within 5 business days. Second, the Companies, in consultation with the IO, will review and consider these written responses in determining instances that were outside of the Proposer's control or otherwise excusable. Third, the Companies will finalize deductions with the express objective of determining the risk of future under- or non-performance based on past performance.

The Companies, with IO confirmation, shall avoid penalizing bidders for past under- or non-performance that was beyond the Proposer's reasonable control. Throughout the process, the IO will ensure that any subjective judgments are conducted reasonably and are applied fairly, transparently, and consistently across proposals. In addition, the IO will review each determination with the Companies and ensure that the Companies inform Proposers of specific infractions and provide an adequate opportunity to respond.

x.

#### Community Engagement Website

The RFP requires that Proposers provide the Companies with a link to their project website on the next business day after the Proposer is notified of selection. Each website would be required to be publicly-viewable on the day that the Companies announce the Final Award Group selection.

Stakeholder feedback in response to a similar requirement in the Oahu and Maui RFPs reflected that such a timeframe for launching the project website would be overly restrictive.<sup>62</sup> The Commission finds it reasonable to provide five business days after notification of selection to the Final Award Group for the Proposer to launch the project website, and directs the Companies to modify the RFP as such.

B.

Independent Engineer

The Commission intends to hire an IE to assist in matters related to interconnection for the Stage 3 RFPs processes on Hawaii Island, Oahu, and Maui. The Commission will issue an RFP concurrently with this Order to seek an IE with technical expertise to perform numerous functions, described herein. The IE will report directly to the Commission to expedite the flow of information and decision-making.

The IE will be present for all discussions between the Companies and Proposers in technical matters related to interconnection and project design. The IE will be a non-partial voice to verify or refute the requirements imposed on developers

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<sup>62</sup>Public Comment filed by Longroad Energy on June 2, 2022, at 4-5, Public Comment filed by AES on June 2, 2022, at 5, and Public Comment filed by Innergex on June 7, 2022, at 3.



by the Companies, which bear cost implications, and will assist in determining whether project re-designs necessitate re-studies. The IE will also verify system information including hosting capacity results shared with Proposers to ensure that these results are accurate and will verify that any required transmission system upgrades attributed to a project are justified and reasonable.

Additionally, if a situation arises in which the Companies and developers, with the assistance of the IE, cannot come to agreement on a technical issue of the project, the IE shall oversee a dispute resolution process. The dispute resolution will include a formal documentation of both parties' positions, an explanation of the IE's findings, and a recommended outcome to be submitted to the Commission and shared with the Companies and the developer.

The IE will also assist the Commission in an investigation into the cost of interconnection. As noted above, the proposals will not be required to include Pro Forma financial materials in the RFP response packages submitted to the Companies. Instead, the RFP shall require the Proposers to submit detailed cost estimates related to interconnection of their projects directly to the IE or the Commission. This preliminary data will assist the IE in conducting a review of the costs of interconnection which will evaluate the impacts of the interconnection studies on cost estimates and the main drivers for

any discrepancies between interconnection cost estimates and actuals. An outcome from this review will be to determine whether any interconnection cost control mechanisms, such as the mechanisms suggested by stakeholders, are feasible in future processes.<sup>63</sup>

The Commission acknowledges that the Companies have created placeholders for the IE in the Stage 3 RFP drafts and directs the Companies to incorporate the specifics of the IE's responsibilities and administration into the RFP.

Lastly, the Commission acknowledges that prior to the execution of a contract with an IE, discussions will be occurring regarding the IE offering the services described herein. Due to the potential delay while those discussions occur, the Commission directs the Companies to include the IO in all communications with the developers and to document and make readily available these correspondences for review by the Commission.

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<sup>63</sup>The Commission received recommendations to explore cost control mechanisms, including Shared Savings Mechanisms, not-to-exceed amounts, and PPA price adjustments for interconnection costs.

C.

Cultural Impact Studies

The Commission notes that the RFP has been revised to reflect stakeholder feedback that it may be difficult for certain projects to complete an Archaeological Literature Review and Field Inspection Report by the time of the bid.<sup>64</sup> The RFP now reflects that these materials should be submitted by the Proposal Due Date, if possible, but may be submitted up to three weeks before the Selection of Priority List date.<sup>65</sup> The Commission finds this provision reasonable and responsive to stakeholder feedback.

D.

Proposed Contract Modifications

In the non-price scoring criterion for Proposed Contract Modifications, the Companies state that "Proposers who accept the Stage 3 Contract without edits will receive a higher score and will be the only Proposals that can achieve the highest scoring for this non-price evaluation criterion."<sup>66</sup> The Commission is

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<sup>64</sup>Public Comment field by Clearway on November 19, 2021, at 5.

<sup>65</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, at 41.

<sup>66</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 4.4.2, at 45.

concerned with the impact this may have on the proposal evaluation insofar as it could inflate the scores of inexperienced Proposers and limit the ability to revise the contracts in mutually beneficial ways.

The Commission notes that the Companies qualify this evaluation stating that "technology-specific or operating characteristic-required modifications, with adequate explanation as to the necessity of such modifications, will not jeopardize a Project's ability to achieve the highest score."<sup>67</sup> The Commission believes this qualification alleviates its concerns and directs the Companies not to be strict with its application of this qualification.

E.

#### GCOD Evaluation

The Commission notes that stakeholders continue to express uncertainty regarding whether a bid's timely GCOD would affect its overall non-price score. The Commission also acknowledge that the Companies addressed this issue in the Companies' January 19 Letter, stating that "incentivizing early GCODs has led to GCODs being proposed that are too aggressive and

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<sup>67</sup>Third Draft Hawaii Island Stage 3 RFP, Exhibit 4, Section 4.4.2, at 45.

do not allow for any flexibility to adjust for even small unanticipated events . . . and will remove the non-price scoring criteria for GCOD.”<sup>68</sup> To ensure clarity on this issue, the Commission directs the Companies to highlight that GCODs are no longer a non-price criteria.

2.

Commission Direction Regarding Further Development  
of the Stage 3 RFPs for Oahu and Maui

The Commission appreciates the development of the Stage 3 RFP materials for Oahu and Maui on a shorter timeline than that for Hawaii Island. As a result of the shorter timeline, the Commission believes there is need for additional feedback and review of these RFPs prior to their approval.

Therefore, the Commission directs the Companies to develop and file the Near-Term GNA for Oahu<sup>69</sup> and Maui within 30 days of this Order, and host a technical conference to discuss the results from the Near-term GNAs for Oahu and Maui no later than one week after the filing of Near-term GNAs.

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<sup>68</sup>Companies’ January 19 Letter, at 7.

<sup>69</sup>The Companies submitted a draft Near-term GNA for Oahu on June 17, 2022, to the stakeholder technical working group members in the IGP proceeding and requested feedback by July 8, 2022. The Commission believes that 30 days is sufficient time to incorporate stakeholder feedback from the IGP process and file the Oahu GNA in the instant docket.

For efficiency, the Companies should consider all the non-island-specific modifications included in this Order to be applicable to the Oahu and Maui Stage 3 RFPs. Accordingly, the Commission orders the Companies to incorporate the modifications in this Order to the Oahu and Maui RFPs and be prepared to file proposed final drafts accordingly for Oahu and Maui, pursuant to further guidance.

#### IV.

#### ORDERS

##### THE COMMISSION ORDERS:

1. The Commission approves, with the modifications set forth above, the Third Draft Hawaii Island Stage 3 RFP, filed by the Companies on May 31, 2022, in connection with the procurement process to acquire renewable dispatchable energy resources on Hawaii Island. The Companies shall file a Final Stage 3 RFP for Hawaii Island within 30 days of this Order. The Final Stage 3 RFP for Hawaii Island shall be considered approved for issuance automatically ten (10) days after it is filed, unless the Commission orders otherwise.

2. The HECO Companies shall file an updated Near-term Grid Needs Assessment for Oahu and Maui Island within 30 days of this Order, and host a technical conference to discuss matters related to the Stage 3 RFP and Near-term Grid Needs on

Oahu and Maui no later than one week after the filing of the Near-term GNAs. Subsequently, the Companies shall prepare to file proposed, final Stage 3 RFPs for Oahu and Maui, incorporating any applicable RFP modifications included in this Order, pursuant to further Commission guidance.

DONE at Honolulu, Hawaii JUNE 30, 2022.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By James P. Griffin  
James P. Griffin, Chair

By Jennifer M. Potter  
Jennifer M. Potter, Commissioner

By Leodoloff R. Asuncion, Jr.  
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:

Caroline C. Ishida  
Caroline C. Ishida  
Commission Counsel

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CERTIFICATE OF SERVICE

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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COMMISSION

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