

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. 38653

ADDRESSING THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR PARTIAL  
RECONSIDERATION AND/OR CLARIFICATION OF ORDER NO. 38479

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RECONSIDERATION AND/OR CLARIFICATION OF ORDER NO. 38479

The Public Utilities Commission ("Commission"), by this Order: (1) denies all but one of the HAWAIIAN ELECTRIC COMPANIES'<sup>1</sup> ("Hawaiian Electric" or "the Companies") requests for reconsideration; (2) grants, in part, one of Hawaiian Electric's requests for reconsideration; and (3) grants, in part, Hawaiian Electric's requests for clarification, set forth in its

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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 ("HAR") § 16-601-62(a).

Motion for Partial Reconsideration and/or Clarification of Order No. 38479.<sup>2</sup>

I.

BACKGROUND

The procedural history of this docket prior to the filing of Order No. 38479<sup>3</sup> is set forth in that Order. The procedural history relevant to the Stage 3 Hawaii Island RFP following issuance of Order No. 38479 is set forth below.

Hawaiian Electric filed its Stage 3 Requests for Proposals ("RFP") for Hawaii Island ("Hawaii Island Stage 3 RFP") on May 31, 2022,<sup>4</sup> in connection with the procurement process to acquire new renewable energy and grid services Hawaii Island.

On June 30, 2022, the Commission issued Order No. 38479.

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<sup>2</sup>"Hawaiian Electric Companies' Motion for Partial Reconsideration And/Or Clarification of Order No. 38479; Memorandum in Support of Motion; and Certificate of Service," filed on July 11, 2022 ("Motion" and "Memorandum in Support," respectively).

<sup>3</sup>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," filed on June 30, 2022 ("Order No. 38479").

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

Hawaiian Electric filed its Motion (with attachments) on July 11, 2022, requesting partial reconsideration and/or clarification of various aspects of Order No. 38479, "in order to avoid unintended consequences and administrative inefficiencies that may occur as a result of the ordered modifications."<sup>5</sup>

On July 20, 2022, Hawaiian Electric filed its request for an extension of time to file its Final Hawaii Island Stage 3 RFP until fifteen business days from the date of the Commission's decision on the Companies' Motion.<sup>6</sup>

On July 28, 2022, the Commission filed Order No. 38531, "Granting the Hawaiian Electric Companies' Motion for Enlargement of Time to File the Final Stage 3 Request for Proposals for Hawaii Island."

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<sup>5</sup>Memorandum in Support at 1.

<sup>6</sup>Letter from K. Katsura to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to Competitive Procurement of Dispatchable and Renewable Generation; "Request for Extension to file Final Stage 3 RFP for Hawaii Island," filed on July 20, 2022.

II.

DISCUSSION

A.

Standard of Review

HAR § 16-601-137 states:

A motion seeking any change in a decision, order, or requirement of the [C]ommission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall be filed ten days after the decision or order is served upon the party, setting forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

The Hawaii Supreme Court explains that “[a] motion for reconsideration is limited to allowing the parties to present new evidence and/or arguments that could not have been presented during trial and is not a device to relitigate old matters or to raise arguments or evidence that could and should have been brought during the earlier proceeding.”<sup>7</sup>

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<sup>7</sup>Gailliard v. Rawsthorne, 150 Hawai‘i 169, 180 (2021) (citation and quotations omitted).

B.

Addressing the Motion

Hawaiian Electric timely filed its Motion on July 11, 2022, in accordance with HAR §§ 16-601-137 and 16-601-22.<sup>8</sup> The Commission discusses the arguments set forth in Hawaiian Electric's Motion in the course of responding to them, below.

State of Project Development and Schedule Evaluation Criteria. The Companies state that they "request reconsideration and removal of Order 38479's modification that directs the Companies not to deduct points from a proposal based on its interconnection-related cost estimates[,]" arguing that "[t]his modification would have the effect of limiting developers' incentive to develop accurate cost estimates, which could harm the Companies and their customers if future interconnection issues arise."<sup>9</sup> The Companies further argue that, in Stage 3, they have "expended significant effort to improve interconnection

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<sup>8</sup>Pursuant to HAR § 16-601-22:

Computation of Time. In computing any period of time specified under this chapter, in a notice, or in any order or rule of the Commission, the day of the act event or default shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or holiday in which even the period runs until the end of the next day which is not a Saturday, Sunday, or holiday.

<sup>9</sup>Memorandum in Support at 3-4.

information provided to developers in advance of proposal submission.”<sup>10</sup>

The Commission understands that the Companies are evaluating the Proposers’ incorporation of the information provided in Appendix H and appreciates the Companies’ concern for ensuring accurate interconnection cost estimates. However, while the Commission acknowledges the improvements that were made to the interconnection information provided in Appendix H and, along with the hiring of the IE, believes these improvements will ultimately help Proposers develop more accurate cost estimates for interconnection, recent experience in the interconnection process indicates that developers may not be provided the resources they need to accurately estimate interconnection costs prior to submitting their bid.<sup>11</sup>

Furthermore, Order No. 38479 directed the Companies to allow Proposers to bid projects that interconnect to 69 kV transmission lines and 69 kV transmission lines that were not included in the RFP, as long as Proposers include the cost of interconnection infrastructure.<sup>12</sup> The Companies recently stated

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<sup>10</sup>Memorandum in Support at 4.

<sup>11</sup>See Public Comment filed by Clearway Energy Group on April 13, 2022, at 1-2, and Public Comment filed by Innergex on November 19, 2021, at 2-3.

<sup>12</sup>Order No. 38479 at 24-25.

that “there will be less upfront information available for 69 kV transmission lines and 69 kV substations not offered in the RFP.”<sup>13</sup>

Therefore, in response to Hawaiian Electric’s concerns regarding interconnection cost accuracy for purposes of bid evaluation, the Commission clarifies that Hawaiian Electric may deduct points if a bid does not include any interconnection cost estimates, but given the limited information for Proposers to estimate costs for transmission lines and substations not included in Appendix H and concerns over the sufficiency of information in the RFP for available sites, the Companies shall not deduct points if they find the interconnection cost estimates to be inaccurate. Instead, the Commission directs the Companies to engage with Proposers throughout the RFP process to answer questions related to interconnection cost estimates, review interconnection cost studies conducted by Proposers, and prioritize the sharing of information to improve the accuracy of the interconnection cost estimates.

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<sup>13</sup>See the Companies’ response to Q13, in the Q&A related to the Stage 3 Hawaii Island RFP (“Stage 3 Hawaii Island RFP Q&A”), available at: <https://www.hawaiianelectric.com/clean-energy-hawaii/selling-power-to-the-utility/competitive-bidding-for-system-resources/stage-3-hawaii-rfp/stage-3-hawaii-rfp-questions-and-answers>.



The Commission intends to review the effectiveness of these criteria during and after the Stage 3 RFPs, and requests that the Companies evaluate the interconnection cost estimates provided by Proposers and share their observations and recommendations with the Independent Observer. The Commission may consider adjusting these requirements in subsequent RFPs as the Companies continue to improve the interconnection process, interconnection cost guides, and with the assistance of the Independent Engineer.

As such, the Commission denies Hawaiian Electric's request to reconsider or remove Order No. 38479's modification of this provision.

Community Benefits Package. "The Companies request reconsideration and removal of Order 38479's modification that directs the Companies to remove the cap on the minimum commitment of funds for Community Benefits Packages ("CBPs") [,]" noting the Commission's concern that this minimum cap could favor larger projects, but arguing that "it is not necessarily true that all technologies have the same footprint, nor that a project with more MW will have a larger footprint or impact than a project with less MW."<sup>14</sup> The Commission acknowledges the Companies' argument that capacity (MW) is not always indicative of a project's

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<sup>14</sup>Memorandum in Support at 4-5.

footprint; however, the Commission believes that having a capacity-based formula for CBP is based on this premise and the Companies have not indicated that cutting this formula off at an arbitrary level is substantiated by any impact on project footprint.<sup>15</sup> Therefore, the Commission denies the Companies' request to reconsider or remove Order No. 38479's direction to remove the cap on the minimum commitment of funds for CBPs.<sup>16</sup>

Regarding CBPs, the Companies also argue that:

With respect to Order 38479's modification that 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[,] the Companies clarify that the Stage 3 RFP already includes the broader community in its community outreach criteria and evaluations. While the census tract of the community hosting a potential project is considered in the RFP evaluation, the community outreach evaluation and use of the CBP and resources by the developer is not limited to a particular census tract. It is also unclear who would make such evaluation for purposes of community benefits and when and how such a determination would be made without extensive subjectivity. Further, while Order 38479 directs the Companies to 'revise the non-price criteria to clarify that any proposed CBP will be measured relative to such community impacts and evaluated accordingly[,] the Companies believe that the revision is unnecessary and would lead to the inadvertent consequence of creating ineffective subjectivity during the evaluation process for this non-price criterion. The Companies therefore

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<sup>15</sup>See Memorandum in Support at 5.

<sup>16</sup>Order No. 38479 at 17-18.

submit that these modifications directed by Order 38479 are not necessary.<sup>17</sup>

While the Companies set forth these concerns, they do not explicitly state that they request that the Commission reconsider this provision.<sup>18</sup> To the extent the Companies are seeking to better understand the Commission's desire for flexibility in the census tract requirement, the Commission clarifies that Hawaiian Electric should change or remove footnote 41 from the Hawaii Island Stage 3 RFP (and also exclude it from the Stage 3 RFPs for other islands), which would restrict funds from non-profits to recipients from the same census tract as the project.<sup>19</sup>

In response to the Companies' concerns that "[i]t is also unclear who would make [a community outreach] evaluation for purposes of community benefits and when and how such a determination would be made without extensive subjectivity[,]"<sup>20</sup> the Commission further clarifies that it is not directing any language changes related to the Companies' evaluation of CBP proposals or seeking an additional layer of evaluation from an outside party, but emphasizes that flexibility and accountability

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<sup>17</sup>Memorandum in Support at 5.

<sup>18</sup>See Memorandum in Support at 5, stating that "[t]he Companies therefore submit that these modifications directed by Order 38479 are not necessary." Id.

<sup>19</sup>Hawaii Island Stage 3 RFP at 41 n.41.

<sup>20</sup>Memorandum in Support at 5.

are key elements of the CBP framework. Furthermore, the Commission emphasizes that the size of the proposed CBPs should be proportionate to the needs of the communities affected by the project, with considerations, for example, of the share of LMI and underserved populations in these communities.

Pro Forma Requirement. In Order No. 38479, the Commission directed 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 [directly to the Independent Engineer ("IE")]."<sup>21</sup> The Commission had included this requirement because "[t]his 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."<sup>22</sup> The Companies state that they "are not seeking reconsideration of Order 38479's direction to remove the pro forma requirement. However, the Companies seek reconsideration and removal of Order 38479's modification that Proposers must provide interconnection cost estimates directly to the [IE] prior to bid

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<sup>21</sup>Order No. 38479 at 20.

<sup>22</sup>Order No. 38479 at 32-33.

submission[,]” arguing that this requirement “separates the interconnection cost estimate from the bid entirely and allows developers to circumvent the Companies’ review.”<sup>23</sup>

The Commission denies the Companies’ request for reconsideration or removal of this provision, reiterating the importance of the IE’s access to interconnection cost estimates, and instead provides the following clarification: The interconnection cost estimates will be submitted to the Companies for the purposes of the evaluation, in accordance with the State of Project Development and Schedule Evaluation Criteria clarification above, and the Companies will review the estimates provided by Proposers. In light of developments related to the timing of the IE contract, rather than Proposers providing interconnection cost estimates prior to bid submission directly to the IE, the Companies will instead provide the IE with access to the interconnection cost estimates as a component of each project’s bid package.

Non-Negotiable Sections of the PPA. In Order No. 38479, the Commission stated that it “believes that the Performance Standards should be made negotiable, as there may be necessary changes to align, for example, with different technology types. Therefore, the Companies are directed to make the

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<sup>23</sup>Memorandum in Support at 6.

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.”<sup>24</sup>

Hawaiian Electric seeks clarification of this provision:

to state that Performance Standards negotiability shall only apply to types of technologies that are not already represented in any of the model PPAs offered in this RFP; further such negotiability shall be related to the details of the specific type of technology as a category, and not any specific equipment chosen by a developer that simply cannot meet the Companies' minimum requirements.<sup>25</sup>

In response, the Commission notes that the Performance Standards refer to cutting-edge aspects of technology and equipment associated to proposed projects. These Performance Standards were an area of numerous modifications during review of the Stage 1 and 2 PPAs, and that these sections of the PPA required clarity and were revised through negotiations with Proposers.<sup>26</sup> The Commission further observes that in prior PPA negotiations, the Companies represented that “[e]ach developer has its own risk profile . . . [and] [a]ccordingly, each developer

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<sup>24</sup>Order No. 38479 at 21-22.

<sup>25</sup>Memorandum in Support at 7.

<sup>26</sup>See Docket No. 2022-0007, “Hawaiian Electric Responses to Consumer Advocate Information Requests,” CA/HECO-IR-25, Attachment 1, filed on April 14, 2022, at 2-9.

evaluated and negotiated the Model PPA according to its own needs.”<sup>27</sup>

As such, while the Commission shares the Companies’ objectives in this area, specifically that Performance Standards incentivize and guarantee customers a certain minimum level of performance,<sup>28</sup> the Commission is reluctant to broadly declare that sections of the Model PPAs are “non-negotiable.” The Commission therefore denies the Companies’ request to clarify that “Performance Standards negotiability shall only apply to types of technologies that are not already represented in any of the model PPAs.”<sup>29</sup> The Companies should not prohibit developers from discussing Performance Standards and associated liquidated damages, while ensuring a fair risk allocation between developers and customers and a reasonable level of performance from the projects. Nevertheless, the Commission emphasizes that all PPAs must ensure a satisfactory level of performance will be maintained through operations during the term of the PPA, and reiterates that this guidance is not an invitation for developers to attempt to weaken necessary performance standards or improperly shift risks onto customers.

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<sup>27</sup>Docket No. 2022-0007, Hawaiian Electric’s Response to CA/HECO-IR-25, filed on April 14, 2022, at 2.

<sup>28</sup>See Memorandum in Support at 7.

<sup>29</sup>Memorandum in Support at 7.

the Companies:

[T]o 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.<sup>30</sup>

The Companies respond in their Motion that, "[n]oting that the IO is already copied on all communications with bidders, the Companies herein seek clarification as to whether there is anything additional and/or specific that they need to provide to the IO."<sup>31</sup>

The Commission clarifies that it is requesting the Hosting Capacity analyses and supporting documentation be provided immediately to the Commission and the IO. The Commission acknowledges that the IO may already be in receipt of the Hosting Capacity results through the Companies' correspondence with developers; however, it is the basis and justification for these results that the Commission and the IE will be reviewing. Therefore, materials related to the development of the hosting capacity results must be provided to the Commission and IO at

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<sup>30</sup>Order No. 38479 at 25.

<sup>31</sup>Memorandum in Support at 7.



present, and the Commission will share these materials with the IE following the execution of its contract.

Carbon Emissions Analysis. Order No. 38479 stated that:

[T]he 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 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."<sup>32</sup>

The Companies:

[S]eek reconsideration and/or clarification of Order 38479's statement that 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." The Companies clarify that the proposed criteria in the most recent draft of the Stage 3 RFP for Hawaii Island does not require an estimate of carbon emissions . . . .

Therefore, the Companies request reconsideration and modification of this statement as the Commission will not have "high-level carbon emissions estimates" to perform the comparison specified in Order 38479. The Companies also in turn seek reconsideration and/or clarification of Order 38479's direction to the Companies to consider modifications to this non-price criterion to mitigate underestimation of high-level emissions analyses, and that the Companies may consider a modification that would require Proposers to

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<sup>32</sup>Order No. 38479 at 27.

consider design changes or, at minimum, propose a plan and changes in assumptions or underestimation of preliminary figures submitted in the bid's Carbon Emissions Questionnaire in light of the fact that there is no requirement for an estimate of carbon emission amounts in the Stage 3 RFP for Hawaii Island.<sup>33</sup>

The Commission acknowledges that the RFP documents do not require a preliminary estimate for GHG emissions and agrees with the Companies that it is unlikely that Proposers would have enough information to provide a "meaningful quantitative estimate at the time of proposal submission."<sup>34</sup> The Commission thus grants the Companies' alternative request for clarification, and clarifies that "the high-level carbon emissions estimates"<sup>35</sup> that the Commission will scrutinize refer to the answers provided in the carbon emissions questionnaire. Furthermore, the Commission's guidance is intended to inform developers that the responses to this questionnaire may be compared with the assumptions used in the Companies' GHG analysis for the project, in order to evaluate the accuracy of these estimates and the usefulness of the carbon emissions evaluation criterion.

The Commission further clarifies that it is concerned with potential underestimation of the factors in the carbon emissions questionnaire and is interested in mitigating the

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<sup>33</sup>Memorandum in Support at 7-8.

<sup>34</sup>See Memo in Support of Motion for Reconsideration at 8.

<sup>35</sup>Order No. 38479 at 27.

potential discrepancies between the responses in the questionnaire and the assumptions used in the full GHG analysis. In order to decrease the potential for underestimation of the factors in the carbon emissions questionnaire, the Commission clarifies that the Companies may consider recommending that Proposers use conservative assumptions, where appropriate, in their questionnaire responses to mitigate the possibility of underestimation. For example, when a proposer is asked to provide "what fraction of project equipment and materials will need to be replaced during the project lifetime,"<sup>36</sup> a conservative assumption could use an above-average scenario for number of equipment failures and wear-and-tear on project materials.

Previous Performance Scoring Criteria. Order No. 38479

states:

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 the subject of a settlement agreement that is currently in effect . . . .

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<sup>36</sup>Hawaii Island Stage 3 RFP, Exhibit 4 at 32.

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 non-price score for these infractions.<sup>37</sup>

Hawaiian Electric:

[S]eeks reconsideration of Order 38479's removal of the eligibility requirement that a proposer is not eligible to participate in the RFP if the proposer, its parent company, or an affiliate has any pending litigation in which the Proposer, parent company or affiliate has made claims against the Companies, which is not the subject of a settlement agreement that is current in effect. While Order 38479 effectively turns this eligibility requirement into an infraction where the Companies may detract two points from a Proposer's non-price score, the Companies submit that a two-point deduction does not reasonably or appropriately account for the magnitude of detriment a proposer could cause if it is in pending litigation with one of the Hawaiian Electric Companies.<sup>38</sup>

The Companies elaborate that "the Proposer could gain information during the course of PPA negotiations that it could use to the Company's detriment in pending litigation[,]" or "allege that it is not getting certain agreements or concessions from the Companies in its PPA negotiations because the pending litigation is influencing the Companies' position."<sup>39</sup>

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<sup>37</sup>Order No. 38479 at 27-28.

<sup>38</sup>Memorandum in Support at 8-9.

<sup>39</sup>Memorandum in Support at 9.

While the Commission acknowledges the Companies' concerns related to disallowing a Proposer from participating in the RFP if the Proposer, its parent company, or affiliate has made claims against the Companies,<sup>40</sup> the Commission reiterates its determination in Order No. 38479 that the three above-listed eligibility requirements are better included among the other infractions in the new Previous Performance Scoring Criterion,<sup>41</sup> and thus denies the Companies' request to reconsider removal of the eligibility requirement related to pending litigation against the Companies. However, the Commission clarifies that, rather than mandating a two-point deduction for this infraction, the Companies may determine an appropriate point deduction to account for the magnitude of detriment caused by this circumstance.

Independent Engineer. Regarding the IE, the Companies:

[S]eek reconsideration of Order 38479's requirement that the IE "be present for all discussions between the Companies and Proposers in technical matters related to interconnection and project design." The Companies submit that requiring the presence of the IE at every technical discussion between the Companies and Proposers is unreasonable, not practical or feasible and will delay the overall RFP process . . . .

[T]he Companies respectfully request that the Commission clarify the extent to which the IE will assist in determining the necessity of restudies and further clarify that the Companies retain the

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<sup>40</sup>See Memorandum in Support at 8-9.

<sup>41</sup>See Order No. 38479 at 27-28.

ability to determine when a restudy is necessary; or in the alternative, clarify that should the IE order or not allow something against the Companies' decisions with respect to the necessity of re-studies, liability for any resulting issues shall also lie with the IE and not with the Companies

. . . .

As the IE has not yet been retained by the Commission, the Companies seek clarification as to the timing of when the Commission intends to have the IE verify system information, as it is not clear whether this requirement will impact the ability to provide hosting capacities to prospective bidders and potentially delay the RFP process . . .

Further, the Companies seek reconsideration and removal [of] the IE's duty to "verify that any required transmission system upgrades attributed to a project are justified and reasonable . . . ." The Companies accordingly request that this authority of the IE be reconsidered and removed, or in the alternative, clarified that should the IE order or not allow something against the Companies' decisions, liability for any resulting issues shall also lie with the IE and not with the Companies.<sup>42</sup>

Regarding Hawaiian Electric's request for reconsideration of the requirement that the IE "be present for all discussions between the Companies and Proposers in technical matters related to interconnection and project design[,] "<sup>43</sup> the Commission acknowledges the potential scheduling difficulty of including the IE in all discussions between the Companies and developers, but also notes the importance of the IE's involvement

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<sup>42</sup>Memorandum in Support at 11-12.

<sup>43</sup>Memorandum in Support at 11.

in the interconnection and project design discussions for purposes of verification and providing oversight. Thus, the Commission grants Hawaiian Electric's request to reconsider this requirement, and further clarifies that the Companies (1) should endeavor to include the IE in as many discussions as possible without creating unreasonable delays in its coordination with developers, and, (2) at a minimum, must provide the IE with the opportunity to participate in all technical discussions with developers, and provide contemporaneous documentation of all technical discussions and all correspondence regarding technical matters with developers. The Commission will make these expectations clear to the IE during the onboarding process.

Regarding the Companies' request for clarification of "the extent to which the IE will assist in determining the necessity of restudies and . . . that the Companies retain the ability to determine when a restudy is necessary[,]" and "the timing of when the Commission intends to have the IE verify system information," and "reconsideration and removal [of] the IE's duty to 'verify that any required transmission system upgrades attributed to a project are justified and reasonable[,]'"<sup>44</sup> the Commission acknowledges the Companies' concerns raised regarding the IE's duties and authority relating to grid

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<sup>44</sup>Memorandum in Support at 11.

management, including determining the need for re-studies, verifying system information, and determining if attributing a transmission system upgrade to a project is justified and reasonable.<sup>45</sup>

The Commission denies the Companies' request to reconsider and remove "the IE's duty to 'verify that any required transmission system upgrades attributed to a project are justified and reasonable[,]' " but clarifies that the role of the IE is to assist the Companies in such determinations. Thus, the IE will not have authority to overrule the Companies' decisions. Additionally, the Commission further clarifies that the IE's duty is to assist the Commission in overseeing the Companies' conduct during the RFPs, including decisions made pertaining to the operation, reliability, and safety of the grid. As such, the Commission may utilize the advice and recommendations of the IE in making determinations and providing guidance to the Companies. Nevertheless, because of the Companies' control and unique knowledge of the grid, the liability for the condition and safety of the grid shall, as always, lie with the Companies. Regarding the Companies' request to clarify the timing of when the Commission intends to have the IE verify system information, the Commission will ensure the Companies are promptly apprised

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<sup>45</sup>Memorandum in Support at 11-12.



when the IE has been engaged. The Companies shall fully and expeditiously cooperate and assist the IE in the performance of its duties.

C.

Request for Hearing or Technical Conference

The Companies request a hearing on their Motion, or in the alternative, a technical conference “[b]ecause written filings alone may not be the most effective means to allow for full comprehension of the issues raised . . . .”<sup>46</sup> In response, the Commission notes the numerous opportunities for discussion on the terms and process surrounding the Hawaii Island Stage 3 RFP via community meetings, past technical conferences, three draft RFP filings, and multiple rounds of public comments. The Commission further finds that the clarifications and additional guidance provided in this Order will suffice to move forward with the Hawaii Island Stage 3 RFP. As such, the Commission denies the Companies’ request for hearing or, in the alternative, a technical conference, on its Motion.

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<sup>46</sup>Motion at 3.

D.

Additional Issues

Following the Motion for Reconsideration, the Companies responded to multiple questions posted on their RFP Q&A webpage related to paired storage projects.<sup>47</sup> Based on the Companies' responses to stakeholders' inquiries, the Commission, on its own motion, provides additional guidance to the Companies to clarify multiple issues addressed in the responses that were not addressed in Order No. 38479 nor raised in the Motion for Reconsideration.

Project Sizing and Available Sites: First, the Companies state that projects are limited in size to the available capacity of the transmission system at the proposed Point of Interconnection ("POI"), regardless of whether an energy storage component is capable of absorbing additional generation and discharging it at lower production hours.<sup>48</sup> Further, the Companies state that, in response to Order No. 38479, Proposers may propose interconnection on transmission lines or substations that are not included in the RFP "as long as Proposers include the cost of transmission network upgrades."<sup>49</sup> However, the Companies continue by stating that there will be less upfront information available

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<sup>47</sup>See Stage 3 Hawaii Island RFP Q&A.

<sup>48</sup>See Stage 3 Hawaii Island RFP Q&A, response to Q12.

<sup>49</sup>Stage 3 Hawaii Island RFP Q&A, response to Q13.

for these transmission lines and substations, there will be limited estimated costs available for associated transmission network upgrades, and requests for information for these POIs will require more time and will have less detail, which "pos[es] increased risk of uncertainty for those choosing to interconnect to other non-offered locations."<sup>50</sup>

The Commission is concerned with the limitations placed on project proposals via the contract capacity and limited information available related to POIs and transmission network upgrades.

Furthermore, it is possible that larger projects in areas where transmission network upgrades may be required could be more economical or provide more benefits to customers than downsizing a project or interconnecting multiple smaller proposed projects. The Commission also notes that the RFP states that proposals that are expected to require transmission network upgrades must be able to be complete such upgrades in time for the Project to reach its bid GCOD.<sup>51</sup>

The Commission thus directs the Companies to provide additional clarity in the RFP regarding how it will work with Proposers to ensure that bids accurately capture costs of necessary

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<sup>50</sup>Stage 3 Hawaii Island RFP Q&A, response to Q13.

<sup>51</sup>See Stage 3 Hawaii Island RFP, Exhibit 4 at 21.

transmission network upgrades and incorporate the timing of such upgrades, which will likely require work by the Companies, into a proposer's GCOD. The Commission also directs the Companies to ensure the RFP clarifies for Proposers the criteria the Companies will use to evaluate a project that exceeds the available capacity at a POI and proposes a transmission network upgrade against a project that does not exceed the available capacity limits.

NEP Calculations: Second, in their posted Hawaii Island RFP Q&A, the Companies clarified that the calculations for the Net Energy Potential projection ("NEP") must not account for any contributions from an energy storage component, as allowed in previous RFPs.<sup>52</sup> The Commission acknowledges the Companies' intent to establish a consistent method of calculating NEPs, however the Commission is concerned with potential adverse effects on the pricing evaluation, as a result. Specifically, if two paired PV projects with the same contract capacity but different BESS capacities are compared, the unit price for the project with the smaller battery may look more beneficial; however, the project with the larger battery may provide greater value to customers if the full capabilities of the project are evaluated.

The RFP addresses this concern, in part, stating that "the benefit of the storage component will be included in the

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<sup>52</sup>See Stage 3 Hawaii Island RFP Q&A, response to Q14.

Company's production modeling of the Project dispatch."<sup>53</sup> However, it is not clear from this statement when this production modeling would occur relative to the initial evaluation or whether a project could be rejected on a unit price basis before the benefits of its storage component are evaluated.

The Commission therefore directs the Companies to further clarify how the benefits from the storage component of a paired storage project will be assessed in the initial evaluation and how projects of different storage durations will be evaluated fairly prior to the production modeling step.

E.

Soliciting Public Comments for Oahu and Maui GNAs

In response to Order No. 38479, the Companies filed Updated Near-term Grid Needs Assessments ("Near-term GNAs") for Oahu and Maui on July 29, 2022.<sup>54</sup> Subsequently, the Companies hosted a technical conference on August 5, 2022, to discuss the updates and findings from the Near-term GNAs, and the Commission is appreciative of the Companies' efforts to develop the Near-term GNAs. The Near-term GNAs feature extensive analyses and

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<sup>53</sup>Stage 3 Hawaii Island RFP, Exhibit 1 at 6.

<sup>54</sup>See Letter from M. Asano to Commission re: Docket No. 2017-0352 - To Institute a Proceeding Relating to Competitive Procurement of Dispatchable and Renewable Generation; "Updated Oahu and Maui Island Near Term Grid Needs Assessment," filed on July 29, 2022.

conclusions that will inform the Stage 3 RFP scopes and concurrent efforts that the Companies will undertake.

Given the breadth of issues covered in the Near-term GNAs, the Commission directs the Companies to solicit interested stakeholders to file public comments on the Near-term GNAs in writing, to be filed in the instant docket and posted on the Companies' website. Such solicitation should be made no later than 5 days from the date of this Order, with public comments filed within 30 days of the Companies' solicitation.

### III.

#### ORDERS

##### THE COMMISSION ORDERS:

1. The Commission denies all but one of the Companies' requests for reconsideration, grants one of the Companies' requests for reconsideration, and grants, in part, the Companies' requests for clarification, as set forth herein.

2. The Commission denies the Companies' request for a hearing, or in the alternative, a technical conference, on its Motion.

3. The Commission orders the Companies to provide the additional clarifications described in Section II.D. in the RFP filed pursuant to Ordering Paragraph No. 5, below.

4. The Commission orders the Companies to solicit public comments for the Oahu and Maui Near-term GNAs within five (5) business days of the date of this Order. Public comments should be filed in the instant docket within no more than 30 days after the Companies' solicitation and shall also be posted to the Companies' website.

5. Pursuant to Order No. 38531, the Companies' deadline to file their Final Hawaii Island Stage 3 RFP is fifteen (15) business days from the filing date of this Order. This will be considered the final, approved version of the Hawaii Island Stage 3 RFP ten (10) days after the date of filing, unless ordered otherwise by the Commission.

DONE at Honolulu, Hawaii OCTOBER 17, 2022 .

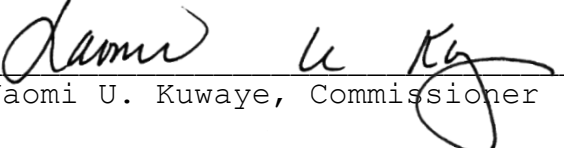
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Leodoloff R. Asuncion, Jr., Chair

By   
Jennifer M. Potter, Commissioner

APPROVED AS TO FORM:

  
Caroline C. Ishida  
Commission Counsel

By   
Naomi U. Kuwaye, Commissioner

2017-0352.ljk

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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