

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application 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. **39145**

GRANTING THE HAWAIIAN ELECTRIC COMPANIES'
MOTION FOR LEAVE TO SUSPEND THE FIRM GENERATION PORTION
OF THE MAUI STAGE 3 REQUEST FOR PROPOSALS

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GRANTING THE HAWAIIAN ELECTRIC COMPANIES'
MOTION FOR LEAVE TO SUSPEND THE FIRM GENERATION PORTION
OF THE MAUI STAGE 3 REQUEST FOR PROPOSALS

By this Order,¹ the Public Utilities Commission ("Commission"), grants the Hawaiian Electric Companies' Motion for Leave to Suspend the Firm Generation Portion of the Maui Stage 3 Request of for Proposals ("RFP"), filed on

¹The Parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND MAUI ELECTRIC COMPANY, LIMITED (collectively referred to as "Hawaiian Electric" or the "Companies") and the DIVISION OF CONSUMER ADVOCACY, an ex officio party, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 16-601-62(a).

April 12, 2023,² and to allow for modification of the Maui Stage 3 RFP, as provided in Order No. 39119, filed on April 5, 2023.³

I.

RELEVANT PROCEDURAL BACKGROUND AND DISCUSSION

On March 6, 2023, MECO submitted a request for approval not to advance its own self-build proposal for 40 megawatts of firm renewable generation, in response to the Maui Stage 3 RFP,⁴ which the Commission denied, pursuant to Order No. 39065, on March 15, 2023.⁵ The Commission also directed MECO to submit a

²"Hawaiian Electric Companies' Motion for Leave to Suspend the Firm Generation Portion of the Maui Stage 3 RFP; Memorandum in Support of Motion; and Certificate of Service," filed on April 12, 2023 ("Motion" and "Memorandum in Support of Motion," respectively).

³Order No. 39119, "Denying the Hawaiian Electric Companies' Motion for Reconsideration and Modification of Order No. 39065," filed on April 5, 2023 ("Order No. 39119").

⁴Order No. 39065, "Denying Maui Electric Company, Limited's Request for Waiver from Submitting a Self-Build Proposal in the Stage 3 Request for Proposals for Maui," filed on March 15, 2023 ("Order No. 39065"); see Docket No. 03-372, Decision and Order No. 23121, filed on December 8, 2006, at Exhibit A ("Framework").

⁵Letter From: M. DeCaprio To: Commission Re: Docket No. 2017-0352 - To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation; "Request for Approval to Not Submit a Self-Bid Proposal," filed on March 6, 2023.

self-build proposal for firm renewable generation for the Maui Stage 3 RFP by April 19, 2023.⁶

On March 28, 2023, the Companies filed their Motion for Reconsideration and Modification of Order No. 39065, wherein they request approval to modify the Maui Stage 3 RFP to allow: (1) filing of a self-build proposal under seal, which would only be opened and evaluated if the RFP does not result in viable proposals that meet the RFP's firm capacity needs; (2) the Self-Build Team to submit a modified version of Appendix G, Attachment 1, which will certify that they have complied with the Code of Conduct subsequent to March 15, 2023 (the filing date of Order No. 39065); and (3) the "Executive in Charge" to submit a Code of Conduct compliance certification after completion of the RFP process, which excludes the period prior to March 15, 2023.⁷

On April 5, 2023, the Commission issued Order No. 39119, which denied the Companies' Motion for Reconsideration and Modification and instructed the Companies to submit a self-build proposal for firm generation for the Maui Stage 3 RFP by the designated deadline, or request leave to suspend

⁶Order No. 39065 at 11.

⁷"Hawaiian Electric Companies' Motion for Reconsideration and Modification of Order No. 39065; Memorandum in Support of Motion; Exhibits A-B; and Certificate of Services," filed on March 28, 2023, at 2-3.

the firm generation portion of the Maui Stage 3 RFP, under certain conditions.

In response, on April 12, 2023, the Companies filed the instant Motion, wherein they request leave to suspend the firm generation portion of the Maui Stage 3 RFP in order "modify the Maui Stage 3 RFP to, among other things, make the Waena site and all non-public information which the Contingency Project team received from the RFP Team available to all potential bidders," as described in Order No. 39119.⁸ The Companies explain that such requests are being made because "it is not possible for the Company to assemble a team as described in Order No. 39119 in time to develop and submit a self-build proposal by April 19, 2023."⁹

Further, the Companies specify that, if their request is granted, potential bidders for the firm generation portion of the Maui Stage 3 RFP will need not submit their firm generation proposals by the current April 19, 2023 deadline (for Company and affiliate proposals), and the April 20, 2023 deadline (for independent power producer proposals).¹⁰ The Motion does not include any modification of the deadline date for variable renewable dispatchable generation bid proposals for the

⁸Memorandum in Support of Motion at 3 (citation omitted).

⁹Memorandum in Support of Motion at 3.

¹⁰Memorandum in Support of Motion at 3.

Maui Stage 3 RFP.¹¹ The Companies also provide a proposed schedule for approval of the revised Maui Stage 3 RFP and reopening of the firm generation portion of the Maui Stage 3 RFP, as well as a description of those actions they have already undertaken to facilitate such schedule and minimize further delay of the firm generation portion of the Maui Stage 3 RFP.¹²

Finally, the Companies confirm their commitment to preserving the integrity of the competitive bidding process and support for this requested course of action to address previously identified concerns with their self-build proposal.¹³

The Commission appreciates the Companies' restated commitment to maintaining the integrity of the competitive bidding process and interest in addressing concerns in order to ensure compliance with the purpose, intent, and spirit of such process. The Commission finds that, in light of the Companies' inability to submit a self-build proposal for firm generation under the Maui Stage 3 RFP by April 19, 2023, and for the reasons stated in Order No. 39119 to support suspension of the firm generation portion of the Maui Stage 3 RFP and modification of the RFP,¹⁴

¹¹Memorandum in Support of Motion at 3.

¹²Memorandum in Support of Motion at 3-5.

¹³Memorandum in Support of Motion at 5.

¹⁴See Order No. 39119 at 14-16.

the Companies' timely filed Motion is granted and its related requests are approved.

The firm generation portion of the Maui Stage 3 RFP is hereby suspended and potential proposers shall not be required to file bids by the current April 19, 2023, and April 20, 2023, deadlines. The Companies shall file appropriate revisions to the Maui Stage 3 RFP, including any related revisions to the model firm power purchase agreement and compliance certificates, as well as a revised proposed RFP timeline, for the Commission's review and approval, by April 27, 2023. As described in Order No. 39119, such revisions to the Maui Stage 3 RFP shall reflect the following: (1) offering the Waena site to all potential bidders for up to 40 megawatts ("MW") of firm generation capacity with interconnection via the Commission approved four bay breaker-and-half switchyard;¹⁵ (2) providing all potential bidders information and analyses on the Waena site, including any related and relevant materials provided to the Contingency Project team; and (3) revising the firm generation timeline for the Maui Stage 3 RFP to include proposed deadlines for milestones at equivalent or reduced intervals to the current timeline,

¹⁵The Waena Switchyard was approved pursuant to Docket No. 2020-0167, Decision and Order No. 38084, filed on November 23, 2021.

if the expedited intervals are solely the responsibility of the Companies, in order to make up for the delay in the RFP.

Notwithstanding the Companies' prior determination to maintain site control at Waena, the Commission finds that making the Waena site available to potential bidders up to the capacity anticipated for the Contingency Project, in addition to suspension of the firm generation portion of the RFP and related requests, will address concerns with upholding the integrity of the competitive bidding process and any competitive advantage that the Companies may have otherwise received with regard to information and access in developing the Contingency Project.¹⁶

The Commission shall reopen the firm generation portion of the Maui Stage 3 RFP within two business days of approval of the revised Maui Stage 3 RFP.

¹⁶See Order No. 39119 at 14-17; see also Order No. 38735, "Approving the Hawaiian Electric Companies' Final Stage 3 Requests for Proposals for Oahu and Maui, with Modifications," filed on December 1, 2022, at 13 (noting the Commission's authority to "exercise its discretion to expedite and/or amend certain parts of the Framework to improve the efficiency of the process"); and Framework at Section III.A.3.d (indicating the Companies' responsibility to consider "[t]he effect on competitive forces of denying bidders the ability to use the site, taking into account whether the unavailability of adequate sites for non-utility bidders gives the electric utility a competitive advantage.").

II.

ORDERS

THE COMMISSION ORDERS:

1. The Commission grants the Companies' Motion and orders that the Maui Stage 3 RFP for firm generation shall be suspended. Potential proposers for firm generation under the Maui Stage 3 RFP shall not be required to file bid proposals on the April 19, 2023, and April 20, 2023, deadlines.

2. The Companies shall file a Proposed Revised Maui Stage 3 RFP that includes but it not limited to the following:

A. Makes available the Waena site to all potential bidders for up to 40 MW of firm generation capacity with interconnection via the Commission approved four bay breaker-and-half switchyard;

B. Provides all potential bidders information and analyses on the Waena site, including any related and relevant materials provided to the Contingency Project team; and

C. Revises the firm generation portion of the Maui Stage 3 RFP timeline to include proposed deadlines for milestones at equivalent or reduced intervals to the current timeline, if the expedited intervals are solely the responsibility of the Companies, in order to make up for the delay in the RFP.

3. The Companies shall continue to be required to submit a self-build proposal for firm generation for the

Maui Stage 3 RFP and shall remove any member from the RFP Team who supported the Contingency Project and who holds an evaluation role for the Maui Stage 3 RFP for firm generation.

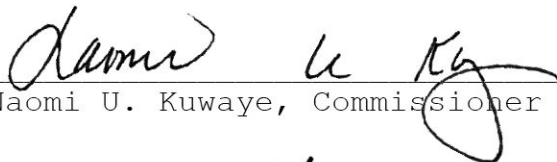
4. The Commission shall issue an order addressing the Proposed Revised Maui Stage 3 RFP by May 11, 2023.

5. The Companies shall reopen the firm generation portion of the Maui Stage 3 RFP two business days after it is approved, unless the Commission orders otherwise.

DONE at Honolulu, Hawaii April 14, 2023.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Leodoloff R. Asuncion, Jr., Chair

By 
Naomi U. Kuwaye, Commissioner

By 
Colin A. Yost, Commissioner

APPROVED AS TO FORM:


Keira Y. Kamiya
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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