



May 25, 2023

The Honorable Chair and Members of the
Hawai'i Public Utilities Commission
465 South King Street
Kekuanao'a Building, First Floor
Honolulu, Hawai'i 96813

Dear Commissioners:

Subject: Docket No. 2017-0352 – To Institute a Proceeding Relating to a Competitive Bidding Process to Acquire Dispatchable and Renewable Generation Responses to Commission's Questions and Requests for Clarifications

Pursuant to Order No. 39272, *Approving the Hawaiian Electric Companies' Revised Maui Stage 3 Request for Proposals, With Modifications*, issued on May 22, 2023 in the subject proceeding ("Order 39272"), the Hawaiian Electric Companies¹ respectfully submit their responses to the Commission's questions and requests for clarification included in Order 39272.

Additionally, upon further review of the materials enclosed with the Companies' April 27, 2023 Submission of Revised Maui Stage 3 Request for Proposals, the Companies have determined that Exhibit 7, Attachment 7, page 1 of 11 may be shared with potential proposers. Accordingly, enclosed is a corrected version of Exhibit 7, Attachment 7, page 1 of 11² and a revised Exhibit 8 which provides the redesignation of Exhibit 7, Attachment 7, page 1 of 11 and further clarifications.

Sincerely,

/s/ Rebecca Dayhuff Matsushima

Rebecca Dayhuff Matsushima
Vice President
Resource Procurement

Enclosure

c: Division of Consumer Advocacy

¹ Hawaiian Electric Company, Inc., Hawai'i Electric Light Company, Inc., and Maui Electric Company, Limited are collectively referred to as the "Hawaiian Electric Companies".

² Exhibit 7, Attachment 7, page 1 of 11 contains confidential information and is being submitted pursuant to the terms of Protective Order No. 36148 issued February 7, 2019 in this proceeding.

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1. Neither Appendix F nor Attachment CC specify terms for developers to lease a portion of the Waena Firm Site. Please clarify whether the Companies will be charging the developer a lease for the property.

Hawaiian Electric Response:

Appendix F and Attachment CC to Appendix L were updated to clarify that the Companies do not intend to issue a lease for the Waena Site and also to confirm that there will be no base rent charges for use of the Waena Site.

2. Appendix F states that “further subdivision of the Waena Subdivision may be necessary and if so, Proposer’s [terms and conditions for use (“TCU”)] may be converted to a lease mutually agreeable to the parties.” Please clarify whether the Waena Firm Site is required to be subdivided in order for the Companies to lease the property to the developer, or whether subdivision of the land is the Companies’ preference, and, if it is the Companies’ preference, please explain why and/or what specific situations would require the land to be subdivided and then leased to the developer.

Hawaiian Electric Response:

There is no legal requirement that the land needs to be subdivided in order for an independent power producer to use the property under the land rights granted through Attachment CC of the power purchase agreement (“PPA”). However, if a lease is required, subdivision would be necessary for a valid lease. As noted in the response to question 1 above, the Company does not intend to grant land rights to the developer of the selected project in the form of a lease. If a lender, insurer or other entity required the selected developer or a developer of a future project on the site to obtain land rights through the form of the lease rather than through the PPA, then the land would need to be subdivided. It is not the Company’s preference to subdivide the land at this time.

3. Regarding revisions to Section 5.1, please clarify how the modifications to the schedule in this Order will impact the Companies’ decision to conduct the SIS for RDG projects separately from the SIS for the firm projects. Furthermore, please clarify what decision-making criteria Hawaiian Electric will use to determine whether to conduct the SISs separately, including:

- A) If the Companies will set a cut-off date to decide if the RDG SIS shall commence separately if the models for the firm project group are not ready to be studied, and if so, how such a cut-off date would be determined;

Hawaiian Electric Response:

It is intended for one SIS to be conducted that combines the selected RDG and firm projects, as each resource can impact the system in various ways. The location, size, controls, and other characteristics of a proposed project would determine the extent of a project’s impact on the systems. The Commission’s proposal to remove the 30 day timeline for firm proposals would help to close the gap between the receipt of RDG models and firm models in order to run one study. Based on the current RDG Stage 3

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schedule and the estimated timelines set forth in the process, the Company anticipates the RDG models will be ready for a group study to commence by December 23, 2023.

The Company revised section 5.1 in consideration of the schedule change in the Order:

“For clarity, the Company intends to perform a group SIS incorporating Renewable Dispatchable Generation and Firm Renewable Generation projects, depending on the status of model readiness. Separate System Impact Studies may need to be conducted for any Renewable Dispatchable Generation Projects selected at the time of the Final Award Group or any Firm Renewable Generation Projects selected at the time of the Final Award Group. The Company will consult with the Independent Observer and the Independent Engineer before making such determination.”

While the timing of the RDG models and firm models do not perfectly align, the Company requests the Commission to consider whether it would be amenable to allow a variance to the Interconnection of Utility Scale Renewable Projects PIM timeline set forth in Docket No. 2018-0088, the Performance Based Regulation proceeding to start the timeline based on the finalization of all RDG and firm models. This variance would allow the RDG and Firm models to be studied together, and not penalize the Company for meeting the intent of the PIM – which is to improve the overall interconnection timeline and process. It should be noted that while the current Interconnection of Utility-Scale Renewable Projects PIM only accounts for RDG PPA projects, the PBR Working Group, PIM Modification Subgroup is currently developing a modification to include non-RDG PPA projects pursuant to Decision and Order No. 38429, ordering paragraph 8.B and anticipates submitting for the Commission's consideration in the near future.

- B) If the Companies will use proxy resources for the firm proposals in the RDG SIS if the SIS for RDG and firm are conducted separately;

Hawaiian Electric Response:

At this time, the Company does not intend to use proxy resources to represent firm proposals. The impact of a firm resource depends on the location, size, controls, and other characteristics of a proposed project. Placing proxy models based on location and size will be highly dependent on the firm proposals received, and including potential locations based on the firm proposals would possibly compromise the firm bid process due to separate teams working on the RDG and firm evaluations. In addition, the actual planned equipment installed should be modeled, as it will impact the control and setting recommendations that are an output of the SIS process, which will not be achieved with proxy models.

- C) If the SIS for RDG and firm are conducted separately, if a re-study will be required for the RDG group after the firm proposals are selected for the Final Award Group;

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Hawaiian Electric Response:

Yes, a study incorporating all resources will be required when the firm proposals are selected.

- D) How much it will cost to both groups of proposers in the cases where: (1) the SIS for RDG and firm are conducted together; (2) the SISs are conducted separately; and (3) a restudy is required; and

Hawaiian Electric Response:

The cost of the SIS cannot be provided at this time, as it is performed as a group, and is dependent on a number of factors, including the number of proposals, the scope of the study (i.e., number of scenarios), technologies included, locations of projects, etc. The Company believes it would be ideal to run one SIS with RDG and firm proposals provided the firm models are received and in acceptable condition shortly after the acceptance of the RDG models. Should the Commission be inclined to grant a variance to the interconnection PIM start date of the model acceptance for all RDG and firm projects, the Company would start the SIS accordingly.

Alternatively, completing one SIS for the RDG projects only, then following up with a study that reviews both the RDG and Firm projects would require the RDG proposers to split the cost of the first study, and the Firm proposers to split the cost of the second study. If there are changes required in the second study that are impacted by the RDG proposers, those proposers would be responsible for any re-work involved. This alternative makes the cost share much more complex.

- E) If the SISs are conducted separately, regardless of whether a re-study is necessary, how the Companies will determine and assign responsibility for system upgrades to each respective study group.

Hawaiian Electric Response:

System upgrades should be attributed to the project(s) causing the system issue. If the SISs are conducted separately, it could impact the finalization of the RDG facility study. If a system upgrade is found in the re-study that was caused by the combination of RDG and Firm projects, the RDG facility study would need to be amended to include the cost-share of the system grade.

4. Regarding the zoning requirement that the Companies reserve 33 acres of land at Waena for renewable resources, please clarify whether and how this requirement will change if the land is subdivided.

Hawaiian Electric Response:

The Company assumes that the 33 acre requirement would remain even if the land were subdivided. However, at the time of subdivision, the County may require different or additional conditions.

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5. Please clarify and/or confirm that all questions and answers from all meetings, site visits, or other inquiries regarding the Maui Stage 3 RFP, including but not limited to, questions and answers regarding firm renewable generation proposals at the Waena Firm Site, will be documented by the Companies and made available to the IE, IO, and all proposers.

Hawaiian Electric Response:

The Company copies the IO on all responses to bidder questions submitted to the Company's RFP email address and includes the IE on responses to questions of a technical nature. Q&As from the May 4, 2023 site visit have been posted to the [Stage 3 Maui Webpage](#).¹ The Companies will also post Q&As that might be helpful to prospective proposers to the [Stage 3 Maui Q&A webpage](#). Q&As will be anonymized to protect any confidential bidder information.

6. The Community-Based Renewable Energy Program Tranche 1 RFP for Maui depicts the Waena parcel(s) as being divided into eight different areas/sub-parcels with the proposed Self-Build Waena Battery Energy Storage System ("BESS") located west of the Waena Switchyard. Appendix F of the Proposed Revised Maui Stage 3 RFP, indicates that the Waena BESS site is located north of the Waena Switchyard. In addition, Appendix F states:

Depending on the future uses of the Waena Subdivision, further subdivision of the Waena Subdivision may be necessary and if so, Proposer's TCU may be converted to a lease mutually agreeable to the parties. Proposer shall be required to pay for its pro rata share of all expenses to subdivide the Waena Subdivision.

- A) While recognizing that the proposed Self-Build Waena BESS has not been approved, please discuss whether the intended location of the BESS shown in Appendix F has been finalized.

Hawaiian Electric Response:

Yes, the location of the proposed Waena BESS has been finalized, which is reflected in Appendix F.

- B) Please discuss the future uses of the Waena Subdivision that would necessitate future subdivision.

Hawaiian Electric Response:

Please see the response to question 2 above.

¹ <https://www.hawaiianelectric.com/clean-energy-hawaii/selling-power-to-the-utility/competitive-bidding-for-system-resources/stage-3-maui-rfp>

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- C) To the extent not discussed above, please discuss whether the land offered to Waena Firm Site proposers can take into account this future subdivision, such that the land offered will not conflict with the future uses of the Waena Subdivision. Please include in this discussion, whether there are portions within the areas colored yellow in Appendix F, Attachment 3, that are not suitable for a firm generation facility.

Hawaiian Electric Response:

Because a future subdivision is unknown at this time, it would be difficult for a proposer to take this into account for its bid. To reiterate our prior response to question 2 above, it is not the Company's preference to subdivide the Waena site. The Company does not intend to offer the developer of the selected project land rights through a lease. Instead, the land rights would be granted as part of the PPA through Attachment CC to Appendix L. However, if a selected Proposer for a Stage 3 project or any future project were to need a lease in order to, for example, finance or insure the project, the Company would in its sole discretion consider subdivision. In order to grant a lease, subdivision would be required. To the Company's knowledge, there are no areas within the Waena site that are not suitable for a firm generation facility. However, Proposers should complete their own due diligence of the site to determine the location best suited for their proposed project. As noted in the Appendix F, however, the Company does reserve the right to relocate a proposer's selected site to maximize the efficient use of the site and to facilitate compliance with County and State restrictions, all as more particularly described in Appendix F.

- D) Please discuss whether the approximately three acres reserved for the Waena Switchyard has sufficient space to accommodate future expansion to include additional renewable generation.

Hawaiian Electric Response:

The Waena Switchyard is approaching completion of construction and was scoped and built to serve specific objectives for grid support and capacity interconnection as outlined in the Company's application and memorialized in the Decision and Order 38084 (Dkt. No. 2020-0167, dated Nov. 23, 2021). The Waena Switchyard is located within the 3 acres allocated as shown in Appendix F. While possible, future expansion to accommodate additional renewable generation within the current switchyard boundary has not been extensively studied. However, an expansion of the switching station boundary is possible to serve new load or generation.

7. Appendix F further provides:

The remainder of the parcel is available for the Proposer to utilize for a renewable firm generation facility sought in this RFP. Proposer shall only be permitted to use as much acreage as is necessary for its project. Additional acreage shall not be available and Proposers may only use the available land for its

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project and for no other uses. Because of County and State use restrictions imposed on the Waena Subdivision (described below) and the need to utilize the remainder of the Waena Subdivision in the most efficient manner possible, Company reserves the right to relocate the proposed site identified by the Proposer prior to the execution of the PPA for use efficiencies, cost considerations, regulatory restrictions or other considerations in Company's sole discretion.

- A) Please confirm that, in the foregoing provision, the Companies are referring to the possible relocation of the "proposed site identified by the Proposer" to another site within the Waena Firm Site. Please clarify whether the self-build proposal will be subject to the same requirement.

Hawaiian Electric Response:

The Companies confirm that relocation refers to relocation within the Waena Firm Site. The self-build proposal will be subject to the same requirement.

- B) Please discuss the County and State use restrictions imposed on the Waena Firm Site, and the "need to utilize the remainder of the Waena Subdivision in the most efficient manner possible," that could necessitate relocation of the proposed firm site, as well as an explanation as to why any areas, including those identified in the revised Appendix F, Attachment 3, as required above, have been or would be deemed unsuitable for a firm generation facility. Also, please explain why these restrictions and/or needs cannot be or have not already been incorporated into how the space offered to the Waena Firm Site proposers has been defined, in order to minimize the need for potential relocation.

Hawaiian Electric Response:

As to not limit a developer's choice for its project within the Waena Subdivision (other than what is already in construction (the Waena Switchyard) or planned (the Waena BESS) the Company did not specify a specific area for a firm generation site. Proposers are welcome to work with the Company in advance to ask questions about their preferred location to minimize the risk of relocation later. Further, the Company clarified in the final draft of the Maui Stage 3 RFP that the Company's intent was to avoid situations where Proposers selected a site, for example, in the middle of the Waena site or designed a road to run through the middle of the parcel effectively making large sections of the remaining parcel unusable. The Company also wants to avoid Proposers using more land than necessary for their project, which would similarly limit future use of the site. The Company simply wants to ensure that Proposer's consider an efficient use of the site to avoid creating parcels of the Waena site that would be unusable due to their size or the ability to access such areas.

- C) Should the Companies determine that relocation of a proposed project site at the Waena Firm Site is necessary, please clarify and/or explain when notification will be

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delivered in order to provide the developer with ample notice prior to the execution of the PPA, and under what circumstances the Companies would make such a decision.

Hawaiian Electric Response:

Notification would be made as soon as possible after selection and prior to PPA execution. Proposers are encouraged to communicate their desired location prior to bidding to receive initial feedback from the Company to limit the potential for any need to request such relocation. Further, if relocation were required, the Company would work with the selected Proposer to determine an area suitable for relocation. As noted above, relocation is contemplated in the event that a Proposer chose a location that rendered portions of the remaining land unusable or if a selected Proposer was proposing to use more land than necessary for the size of the project. Proposers who consider such aspects when choosing a location will limit the risk of relocation.

8. Please clarify what types of information the Companies believe cannot be disclosed to potential proposers, even under NDA, because such disclosure could result in potential proposers receiving an unfair business advantage over third parties.

Hawaiian Electric Response:

Exhibit 7 of the Companies' April 27, 2023 filing included a description of information and materials on the Waena site provided to the contingency project team. In their filing, the Companies noted that certain information could not be disclosed to potential proposers even under an NDA. The Companies provided their justification in the confidentiality table in Exhibit 8. Exhibit 7 included 7 attachments. Attachments one through six included various information and materials on the Waena site. To facilitate the Commission's review, the Companies prepared and filed Attachment 7, which was a compilation of Attachments 1 through 6, to show what the Companies would provide to potential proposers who executed an NDA.

Upon further review of the materials, the Companies have determined that Exhibit 7, Attachment 1 (or Exhibit 7, Attachment 7, page 1 of 11) (interconnection information for the Companies' facilities in Waena Contingency Unit Substation Interconnection T&D Planning Single Line Diagram) can be shared with potential proposers who have executed an NDA. Generally speaking, the Companies do not make public their confidential critical infrastructure information due to potential risk to the Companies' facilities, the disclosure of which could be used to reveal system vulnerabilities which may result in significant harm to the system and could impact the Companies' customers in the form of increased repair costs, major and extensive outages, and potentially catastrophic damages. However, under certain circumstances, the Companies do share limited critical infrastructure information with potential proposers subject to an NDA.

Attached is a corrected version of Exhibit 7, Attachment 7 page 1 of 11, and Exhibit 8, which is a revised confidentiality log reflecting the redesignation of Exhibit 7, Attachment 7 page 1 of 11, and the correction of exhibit references that were previously inadvertently mis-referenced.

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Notwithstanding the foregoing, the Companies continue to believe that certain information cannot be disclosed to potential proposers, even under an NDA, for the reasons set forth in the Companies' confidentiality justification log, and as further discussed below.

Regarding Exhibit 7 Attachment 5, p. 4 (or Exhibit 7, Attachment 7, page 9 of 11) (production simulation results for Waena Generation by Fuel Type), the Companies provided a production simulation of estimated annual energy production of the contingency generator units being considered by the contingency project team at that time, using specific generator unit characteristics that are based on proprietary vendor information, which is protected by a non-disclosure agreement with the vendor. If the Companies disclosed such information, it could result in the Companies infringing upon certain proprietary rights and expose the Companies to certain liabilities. Further, such disclosure would disadvantage and competitively harm the Companies' vendor, impact the Companies' bargaining power relative to other vendors, place the Companies at a competitive disadvantage in future contract negotiations, and harm the Companies' relationships with existing and/or prospective vendors and/or customers. Vendors would be discouraged from doing business with the Companies, which would narrow the pool of vendors for the Companies and could in turn increase costs for the Companies and customers. Disclosure of this information also could dissuade the market from setting the most competitive pricing for this and future RFPs and/or give an unfair business advantage to potential proposers, as such information could be used to derive pricing proposals for this RFP and potential future projects, and potential proposers would receive an unfair business advantage over third-parties resulting in higher pricing for future procurements and increased costs or other prejudice to the Companies and their customers.

Notwithstanding the Companies' inability to provide the information in Exhibit 6, Attachment 5, p.4 (or Exhibit 7, Attachment 7, page 9 of 11), to potential proposers even under an NDA, the Companies note that page 7 of the RFP provided guidance to potential proposers on annual capacity factors (i.e., the amount a generator may run per year) of the firm generation (based on assumptions as stated) sought through the RFP. Accordingly, potential proposers already have access to information similar in nature to the confidential information which cannot be disclosed.

Regarding Exhibit 7 Attachment 6 (or Exhibit 7 Attachment 7, page 11 of 11) (supplier information regarding product performance), the information is confidential proprietary vendor information, which is protected by a non-disclosure agreement with the vendor. The Companies therefore cannot disclose the information to potential proposers for the reasons set forth above for Exhibit 7, Attachment 5.

EXHIBIT 8: REVISED CONFIDENTIALITY JUSTIFICATION TABLE

Pursuant to Protective Order No. 36148, issued on February 7, 2019,¹ the Hawaiian Electric Companies² hereby identify redacted confidential and/or proprietary information that is being submitted as “confidential information” or “restricted information” and: (1) identifies, in reasonable detail, the confidential information’s source, character, and location; (2) states clearly the basis for the claim of confidentiality; and (3) describes, with particularity, the cognizable harm to the producing party or participant from any misuse or unpermitted disclosure of the information. For designations of restricted information, additional descriptions of the cognizable harm are provided.

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
Ex. 7, Attachment 1 Ex. 7, Attachment 7, page 1 of 11 (previously incorrectly referenced as Ex. 6, Attachment 1)	Interconnection information for Companies’ facilities in Waena Contingency Unit Substation Interconnection T&D Planning Single Line Diagram.	No	The confidential information consists of critical infrastructure and system security information that should not be disclosed under the Homeland Security Act of 2002 and the rules and guidelines promulgated thereunder, and as such is protected from disclosure under section 92F-13(4) of the Uniform Information Practices	The document contains confidential critical infrastructure information of the Companies’ lines and substations which, if disclosed publicly, could increase the risk to the Companies’ facilities, jeopardize its emergency and disaster preparedness plans, and/or adversely impact its ability to respond to potential security threats. The Companies maintain that the subject information also falls under the frustration of legitimate government function exception of the UIPA, as disclosure of the subject information would impair the Commission’s ability to obtain necessary information to properly perform its review of this regulatory proceeding (as the Companies would not have submitted the confidential information in this docket but for: (1) the governmental function of reviewing the Companies’ request for approval of the RFP; and

¹ Although Protective Order No. 36148 is not a two-tiered protective order, the Companies are restricting the information from prospective proposers in order to comply with the RFP Code of Conduct and maintain the integrity of the competitive bidding process.

² Hawaiian Electric Company, Inc., Hawai‘i Electric Light Company, Inc., and Maui Electric Company, Limited are collectively referred to as the “Hawaiian Electric Companies” or “Companies”.

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
			<p>Act (“UIPA”),³ and also falls under the frustration of legitimate government function exception of the UIPA.</p>	<p>(2) the Companies’ belief and reliance that the information would not be publicly disclosed).</p> <p>The confidential information: (1) has not been previously disclosed or otherwise publicly disseminated; (2) is not of the kind of information that the Companies would customarily disclose to the public; and (3) is of a nature that its disclosure could (a) impair the Commission’s ability to obtain necessary information from similarly situated parties in the future, and (b) cause substantial harm to the Companies and/or its customers as previously described above.</p>

³ Hawai‘i Revised Statutes § 92F-13(3).

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
<p>Ex. 7, Attachment 2</p> <p>Ex. 7, Attachment 7, page 2 of 11</p> <p>(previously incorrectly referenced as Ex. 6, Attachment 1)</p>	<p>Waena Contingency Unit Interconnection Planning Single Line Diagram.</p>	<p>No</p>	<p>The confidential information consists of critical infrastructure information of the Companies' prior proposed Contingency Project that should not be disclosed publicly under the Homeland Security Act of 2002 and the rules and guidelines promulgated thereunder, and as such is protected from disclosure under section 92F-13(4) of the UIPA, and also falls under the frustration of legitimate government function exception of the UIPA.</p>	<p>The document contains confidential critical infrastructure information of the Companies' prior proposed Contingency Project, which, if disclosed publicly, could increase the risk to the Companies' facilities, jeopardize its emergency and disaster preparedness plans, and/or adversely impact its ability to respond to potential security threats.</p> <p>The Companies maintain that the subject information also falls under the frustration of legitimate government function exception of the UIPA, as disclosure of the subject information would impair the Commission's ability to obtain necessary information to properly perform its review of this regulatory proceeding (as the Companies would not have submitted the confidential information in this docket but for: (1) the governmental function of reviewing the Companies' request for approval of the RFP; and (2) the Companies' belief and reliance that the information would not be publicly disclosed).</p> <p>The confidential information: (1) has not been previously disclosed or otherwise publicly disseminated; (2) is not of the kind of information that the Companies would customarily disclose to the public; and (3) is of a nature that its disclosure could (a) impair the Commission's ability to obtain necessary information from similarly situated parties in the future, and (b) cause substantial harm to the Companies and/or its customers as previously described above.</p>

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
<p>Ex. 7, Attachment 5, page 4 of 5</p> <p>Ex. 7, Attachment 7, page 9 of 11</p> <p>(previously incorrectly referenced as Ex. 6, Attachment 5, p. 4.)</p>	<p>Production simulation results for Waena Generation by Fuel Type (GWH).</p>	<p>Yes.</p> <p>Restricted information disclosed only to: PUC, CA</p> <p>Restricted from: Potential proposers</p>	<p>Confidential cost information, and proprietary vendor information which falls under the frustration of legitimate government function exception of the UIPA.</p>	<p>The document shows the production simulation results for Waena Generation by Fuel Type (GWH). Disclosure of the subject information could cause the Companies to be competitively disadvantaged in present and future procurements, and may jeopardize the Companies' current or future procurements and contract negotiations. Disclosure of this information could dissuade the market from setting the most competitive pricing for this and future RFPs and/or give an unfair business advantage to potential proposers, as such information could be used to derive pricing proposals for this RFP and potential future projects, and potential proposers would receive an unfair business advantage over third-parties resulting in higher pricing for future procurements and increased costs or other prejudice to the Companies and their customers.</p> <p>Further, the production simulation used specific generator unit characteristics that are based on proprietary vendor information, which is protected by a non-disclosure agreement with the vendor. If the Companies disclosed such information, it could result in the Companies infringing upon certain proprietary rights and expose the Companies to certain liabilities. Further, such disclosure would disadvantage and competitively harm the Companies' vendor, impact the Companies' bargaining power relative to other vendors, place the Companies at a competitive disadvantage in future contract negotiations, and harm the Companies' relationships with existing and/or</p>

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
				<p>prospective vendors and/or customers. Vendors would be discouraged from doing business with the Companies, which would narrow the pool of vendors for the Companies and could in turn increase costs for the Companies and customers. Disclosure of this information also could dissuade the market from setting the most competitive pricing for this and future RFPs and/or give an unfair business advantage to potential proposers, as such information could be used to derive pricing proposals for this RFP and potential future projects, and potential proposers would receive an unfair business advantage over third-parties resulting in higher pricing for future procurements and increased costs or other prejudice to the Companies and their customers.</p> <p>The Companies maintain that the subject information falls under the frustration of legitimate government function exception of the UIPA as disclosure of subject information would impair the Commission's ability to obtain necessary information to properly perform its review of this regulatory proceeding (as the Companies would not have submitted the confidential information in this docket but for: (1) the governmental function of reviewing the Companies' request for approval of the Stage 3 Maui RFP; and (2) the Companies' belief and reliance that the information would not be publicly disclosed).</p> <p>The confidential information: (1) has not been previously disclosed or otherwise publicly</p>

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
				<p>disseminated; (2) is not of the kind of information that the Companies would customarily disclose to the public; and (3) is of a nature that its disclosure could (a) impair the Commission’s ability to obtain necessary information from similarly situated parties in the future, and (b) cause substantial harm to the Companies and/or its customers as previously described above.</p> <p>Basis for withholding from potential proposers: The information is subject to a non-disclosure agreement and disclosure could result in the Companies infringing upon certain proprietary rights and expose the Companies to certain liabilities. Disclosure of the information to potential proposers could also result in such bidders receiving an unfair business advantage over third-parties as such information could be used to derive pricing proposals for this and potential future projects resulting in prejudice to the Company and its customers.</p>
<p>Ex. 7, Attachment 6 Ex. 7, Attachment 7, page 11 of 11 (previously incorrectly referenced as Ex. 6, Attachment 6)</p>	<p>Supplier information regarding their product’s performance.</p>	<p>Yes. Restricted information disclosed only to: PUC, CA Restricted from: Potential proposers</p>	<p>Confidential and proprietary vendor information which falls under the frustration of legitimate government function exception of the UIPA.</p>	<p>The confidential and proprietary vendor information is protected by a non-disclosure agreement, so disclosure of the information could result in the Companies infringing upon certain proprietary rights and exposing the Companies to certain liabilities. Further, such disclosure would disadvantage and competitively harm the Companies’ vendor, impact the Companies’ bargaining power relative to other vendors, place the Companies at a competitive disadvantage in future contract negotiations, and harm the</p>

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
				<p>Companies' relationships with existing and/or prospective vendors and/or customers. Vendors would be discouraged from doing business with the Companies, which would narrow the pool of vendors for the Companies and could in turn increase costs for the Companies and customers. Disclosure of this information also could dissuade the market from setting the most competitive pricing for this and future RFPs and/or give an unfair business advantage to potential proposers, as such information could be used to derive pricing proposals for this RFP and potential future projects, and potential proposers would receive an unfair business advantage over third-parties resulting in higher pricing for future procurements and increased costs or other prejudice to the Companies and their customers.</p> <p>The Companies maintain that the subject information falls under the frustration of legitimate government function exception of the UIPA as disclosure of subject information would impair the Commission's ability to obtain necessary information to properly perform its review of this regulatory proceeding (as the Companies would not have submitted the confidential information in this docket but for: (1) the governmental function of reviewing the Companies' request for approval of the Stage 3 Maui RFP; and (2) the Companies' belief and reliance that the information would not be publicly disclosed).</p>

Reference	Identification of Item	Restricted?	Basis of Confidentiality	Harm
				<p>The confidential information: (1) has not been previously disclosed or otherwise publicly disseminated; (2) is not of the kind of information that the Companies would customarily disclose to the public; and (3) is of a nature that its disclosure could (a) impair the Commission’s ability to obtain necessary information from similarly situated parties in the future, and (b) cause substantial harm to the Companies and/or its customers as previously described above.</p> <p>Basis for withholding from potential proposers: The information is subject to a non-disclosure agreement and disclosure could result in the Companies infringing upon certain proprietary rights and expose the Companies to certain liabilities. Disclosure of the information to potential proposers could also result in such proposers receiving an unfair business advantage over third-parties as such information could be used to derive pricing proposals for this and potential future projects resulting in prejudice to the Company and its customers.</p>

Nojiri, Andrew

From: puc@hawaii.gov
Sent: Thursday, May 25, 2023 3:15 PM
To: Nojiri, Andrew
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