

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. )  
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ORDER NO. 39272

APPROVING THE HAWAIIAN ELECTRIC COMPANIES'  
REVISED MAUI STAGE 3 REQUEST FOR PROPOSALS, WITH MODIFICATIONS

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APPROVING THE HAWAIIAN ELECTRIC COMPANIES'  
REVISED MAUI STAGE 3 REQUEST FOR PROPOSALS, WITH MODIFICATIONS

By this Order,<sup>1</sup> the Public Utilities Commission ("Commission"), approves, with modifications, the Hawaiian Electric Companies' Proposed Revised Maui Stage 3 Request for Proposals ("RFP"), filed on April 27, 2023.<sup>2</sup>

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<sup>1</sup>The Parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND MAUI ELECTRIC COMPANY, LIMITED ("MECO") (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).

<sup>2</sup>Letter From: R. Matsushima To: Commission Re: Docket No. 2017-0352 - "Submission of Revised Maui Stage 3 Request for Proposal," filed on April 27, 2023 ("Proposed Revised Maui Stage 3 RFP"); and "Hawaiian Electric Companies' Submission of Revised Maui Stage 3 Request for Proposals and Waena Materials; Book 2 of 2; Filed April 28, 2023," filed on April 28, 2023 ("Proposed Revised Maui Stage 3 RFP, Book 2").

I.

RELEVANT PROCEDURAL BACKGROUND

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,<sup>3</sup> which the Commission denied, pursuant to Order No. 39065, on March 15, 2023.<sup>4</sup> The Commission also directed MECO to submit a self-build proposal for firm renewable generation for the Maui Stage 3 RFP by April 19, 2023.<sup>5</sup>

On March 28, 2023, the Companies filed their Motion for Reconsideration and Modification of Order No. 39065, wherein they requested 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

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<sup>3</sup>Letter 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.

<sup>4</sup>Order 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").

<sup>5</sup>Order No. 39065 at 11.

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.<sup>6</sup>

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 the firm generation portion of the Maui Stage 3 RFP, under certain conditions.<sup>7</sup>

In response, on April 12, 2023, the Companies filed a Motion for Leave to Suspend the Firm Generation Portion of the Maui Stage 3 RFP, wherein they requested leave to suspend the firm generation portion of the Maui Stage 3 RFP in order "to modify the Maui Stage 3 RFP to, among other things, make the Waena site and all non-public information which the Contingency Project team

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<sup>6</sup>"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.

<sup>7</sup>Order No. 39119, "Denying the Hawaiian Electric Companies' Motion for Reconsideration and Modification of Order No. 39065," filed on April 5, 2023 ("Order No. 39119").

received from the RFP Team available to all potential bidders,” as described in Order No. 39119.<sup>8</sup>

On April 14, 2023, the Commission issued Order No. 39145, which granted the Companies’ Motion for Leave to Suspend the Firm Generation Portion of the Maui Stage 3 RFP, thereby suspending the firm generation portion of the Maui Stage 3 RFP until such time as the Commission approves a Revised Maui Stage 3 RFP and lifts the suspension.<sup>9</sup> Order No. 39145 also maintained that the Companies shall be required to submit a self-build proposal for firm generation for the Maui Stage 3 RFP.<sup>10</sup>

On April 27, 2023, the Companies filed their Proposed Revised Maui Stage 3 RFP.<sup>11</sup>

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<sup>8</sup>“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, Memorandum in Support of Motion at 3 (citation omitted).

<sup>9</sup>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,” filed on April 14, 2023 (“Order No. 39145”).

<sup>10</sup>Order No. 39145 at 8-9.

<sup>11</sup>Proposed Revised Maui Stage 3 RFP; and Proposed Revised Maui Stage 3 RFP, Book 2.

II.

DISCUSSION

Pursuant to Order No. 39145, the Commission instructed the Companies to, among other things, file a Proposed Revised Maui Stage 3 RFP that includes modifications to: (1) make the Waena site available to all potential bidders for up to 40 megawatts of firm generation capacity with interconnection via the Commission approved four bay breaker-and-half switchyard; (2) provide all potential bidders information and analyses on the Waena site, including any related and relevant materials provided to the Contingency Project team; and (3) revise 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.<sup>12</sup> The Waena site being offered to Proposers for firm renewable projects is approximately 60.9 acres within the Companies' Waena property ("Waena Firm Site").<sup>13</sup>

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<sup>12</sup>Order No. 39145 at 8.

<sup>13</sup>Proposed Revised Maui Stage 3 RFP Exhibit 1 at 39.

A.

Proposed Revised Maui Stage 3 RFP

Pursuant to Order No. 39145, the Companies filed their Proposed Revised Maui Stage 3 RFP, which includes the following revisions.

RFP Timeline for Firm Generation Proposals.

The Companies propose a revised schedule for firm renewable generation, which establishes the deadline for firm renewable generation bids on August 14, 2023 (Company and affiliate bids), and August 15, 2023 (independent power producer ("IPP") bids), and the deadline for Final Award Group selection on January 23, 2024.<sup>14</sup> The Companies also offer an alternate firm renewable generation schedule, in the event that there is no interest from IPPs to submit bid proposals for the Waena Firm Site. Such alternate schedule would accelerate the bid deadline to June 22, 2023 (Company and affiliate bids), and June 23, 2023 (IPP bids), and the Final Award Group selection deadline to December 1, 2023.<sup>15</sup> The Companies propose to determine whether there is interest from IPPs by requesting an Expression of Interest ("EOI"), which must

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<sup>14</sup>Proposed Revised Maui Stage 3 RFP at 1-2, and Exhibit 1 at 33, Table 3.

<sup>15</sup>Proposed Revised Maui Stage 3 RFP at 1-2, and Exhibit 1 at 31-32 and Table 4.

be submitted by May 22, 2023.<sup>16</sup> It is not clear if the Companies' intent is to require all bidders to submit an EOI, or if it is sufficient for at least one bidder to submit an EOI for the revised schedule to remain in place, which would also allow additional bidders to submit proposals.

Waena Firm Site Details and Availability. The Companies include an Appendix F, Description of Available Sites, which provides information on the Waena Firm Site and an updated map and information related to interconnection of a firm project at the Waena Switchyard.<sup>17</sup> An updated Appendix H, Interconnection Facilities Cost and Schedule Information, was also provided, which includes information related to interconnection of a firm project at the Waena Switchyard.<sup>18</sup> Additionally, the Companies updated Appendix L, Model Firm Power Purchase Agreement ("PPA"), to include an Attachment CC - Company-Owned Site, which provides the terms and conditions for use of the Waena Firm Site, including but not limited to, specific provisions

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<sup>16</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 1 at 27.

<sup>17</sup>Proposed Revised Maui Stage 3 RFP at 2 and Exhibit 3.

<sup>18</sup>Proposed Revised Maui Stage 3 RFP at 2 and Exhibit 5.



regarding land use conditions, subdivision details, operations and maintenance costs, insurance, indemnity, and security.<sup>19</sup>

Guaranteed Commercial Operations Date ("GCOD").

The Companies revise the GCOD by noting the preference that renewable firm capacity be in service by no later than December 1, 2027, given the need to retire the Kahului Power Plant and end service for diesel engines at Maalaea Power Plant.<sup>20</sup> However, the Proposed Revised Maui Stage 3 RFP also allows for a GCOD of February 1, 2028, to account for the suspension of the RFP, and notes the intention to evaluate the impact of the GCOD during the Detailed Evaluation of the Proposals.<sup>21</sup>

Chapter 4: Evaluation Process and Evaluation Criteria.

The Companies include separate evaluation and selection processes for the Renewable Dispatchable Generation ("RDG") and Firm Renewable Generation portions of the RFP, to account for the differences in timelines for each target.<sup>22</sup> Section 4.8 of Exhibit 1 also specifies that RDG projects not selected to

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<sup>19</sup>Proposed Revised Maui Stage 3 RFP at 2; see generally Proposed Revised Maui Stage 3 RFP, Book 2, Exhibit 6 at Attachment CC.

<sup>20</sup>Proposed Revised Maui Stage 3 RFP at 2 and Exhibit 1 at 6 and 15, Section 1.2.16.

<sup>21</sup>Proposed Revised Maui Stage 3 RFP at 2 and Exhibit 1 at 6 and 15, Section 1.2.16.

<sup>22</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 1 at 46-47, Section 4.1.

the Final Award Group may be considered to fill the Firm Renewable Generation target and vice versa, if the identified need has not been met for the respective targets.<sup>23</sup>

Section 5.1 Project Interconnection Process. As an addendum to the original intent to minimize costs and schedules for all Proposers, the Companies indicated that portions of the System Impact Study ("SIS") will be performed as a group study. The Companies clarify that:

[D]epending on the timing of selection, separate [SISs] may be conducted for any Projects selected at the time of the Final Award Group selection for the [RDG] Target of the RFP and any Projects selected at the time of the Final Award Group selection for the Firm Renewable Generation Target of the RFP.<sup>24</sup>

Appendix G - Hawaiian Electric Development Team Certification Form. The Proposed Revised Maui Stage 3 RFP revises Appendix G to address concerns with direct communications between "members of the Hawaiian Electric Development Team and the Hawaiian Electric RFP Team, while [they were] members of the Companies' Contingency Plan team[,] " prior to March 15, 2023.<sup>25</sup> The Companies include certain exceptions in the certification form, without which "the Hawaiian Electric Development Team

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<sup>23</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 1 at 69-70, Section 4.8.

<sup>24</sup>Proposed Revised Maui Stage 3 RFP at 72, Section 5.1.

<sup>25</sup>Proposed Revised Maui Stage 3 RFP at 2-3.

would not be able to provide the certification, which could render the Company's self-build proposal as non-conforming, and would therefore be counter to the Commission's Order Nos. 39065 and 39119 directing the Company to develop and submit a self-build proposal."<sup>26</sup>

Access to Contingency Project Information.

The Companies advise that information and analyses that were provided to the Contingency Project team have been made available to potential bidders for the Waena Firm Site, which includes confidential information that will be made available to potential bidders after execution of a non-disclosure agreement ("NDA").<sup>27</sup> The Companies also advise that additional confidential information "cannot be disclosed to potential proposers even under an NDA, as such disclosure could result in potential proposers receiving an unfair business advantage over third-parties and such information could be used to derive pricing proposals for this and future procurements resulting in prejudice to the Companies and their customers."<sup>28</sup>

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<sup>26</sup>Proposed Revised Maui Stage 3 RFP at 3.

<sup>27</sup>See Proposed Revised Maui Stage 3 RFP at 3; Proposed Revised Maui Stage 3 RFP, Book 2 at Exhibit 7.

<sup>28</sup>Proposed Revised Maui Stage 3 RFP at 3.

B.

Commission Modifications and Clarifications

The Commission finds that the Companies have generally complied with the Commission's direction in Order Nos. 39119 and 39145 in making available the Waena Firm Site to potential bidders. However, the Commission instructs the Companies to make some additional revisions to the Proposed Revised Maui Stage 3 RFP, which the Commission does not anticipate will require significant time and, therefore, requests that the Companies quickly turnaround filing of the Final Revised Maui Stage 3 RFP so as not to delay or otherwise impact the bid deadline or any subsequent milestones.

At the same time, the Commission has questions regarding potential bids at the Waena Firm Site and requests clarification on these matters but in doing so, does not seek to unnecessarily delay the process. Therefore, the Commission requests that the Companies separately provide responses and clarifications to the Commission's questions, as discussed below, which shall not impact final approval and execution of the Revised Maui Stage 3 RFP unless the responses raise significant issues.

The Commission addresses both the revisions and questions separately, below.

1.

Modifications and Revisions to the  
Proposed Revised Maui Stage 3 RFP

The Commission appreciates that the Companies provided IPPs the opportunity to visit the Waena Firm Site on May 4, 2023. The Commission also appreciates the Companies' efforts to "work to ensure that any delay be as minimal as possible in light of the current reliability concerns[,]""<sup>29</sup> by proposing an opportunity to accelerate the timeline if no IPPs express interest in submitting firm generation proposals for the Waena Firm Site. The Commission is encouraged that several IPPs expressed interest in participating in and/or participated in the site visit, and, while not dispositive, finds that this provides evidence of sufficient interest to forego pursuing the alternate timeline. More importantly, eliminating the alternate timeline will remove any confusion that could have been caused by the existence of multiple timelines, as well as any uncertainty regarding how the Companies intended to use the EOIs to determine whether the alternate schedule should be applied. The Commission further finds that adopting the revised timeline will also provide additional time for questions from the Commission, as well as potential IPP

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<sup>29</sup>Order No. 39119 at 16.

bidders, to be answered with regard to firm generation bids at the Waena Firm Site.

As such, the Commission instructs the Companies to remove Table 4: Alternate Firm Renewable Generation RFP Schedule, from Exhibit 1 of the Proposed Revised Maui Stage 3 RFP, and any related language and/or references to the Alternate Firm Generation RFP Schedule, including references to the "IPPs indicate interest in Waena Firm Site" milestone, which the Companies proposed to use to determine the need for the alternate schedule.<sup>30</sup>

However, the Commission has concerns with the timing of the System Impact Study ("SIS") and is inclined to modify certain milestone deadlines to mitigate potential delays to the SIS for the RDG projects. The Companies state that the SIS may be conducted separately, depending on the timing of the selection of the Final Award Groups for the RDG and the Firm Renewable projects. This potential separation of the SIS has implications for both the cost of the studies for proposers and delays to the RDG projects, while also creating a potential need for re-studies, which can introduce additional cost and timing impacts. Therefore, the Commission instructs the Companies to consider modifying the

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<sup>30</sup>See Proposed Revised Maui Stage 3 RFP, Exhibit 1 at 31-32, Section 3.1.

RFP schedule by reducing or removing the timeline for firm proposers to finalize their technical models following selection to the Final Award Group. If the Companies choose to make this modification, the Companies shall include such revision in their Final Revised Maui Stage 3 RFP, which shall provide Proposers ample notice of the timeline to complete their models. If the Companies choose not to make this modification, the Companies shall provide a rationale for leaving this timeline in place and clarify how they plan to mitigate the risk of schedule delays and cost increases related to conducting a separate SIS as part of their Final Revised Maui Stage 3 RFP filing. Additionally, the Companies shall consult the Independent Engineer ("IE") when making decisions regarding the timing, separation, use of proxy resources, and cost allocations for the SIS for the RDG projects and the firm projects.

Furthermore, the Companies have indicated that they "reserve the right to relocate the proposed site identified by the [Waena Firm Site] Proposer"<sup>31</sup> due to the fact that the Waena Subdivision, within which the Waena Firm site is located, is subject to certain State and County conditions and obligations and the Companies "need to utilize the remainder of

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<sup>31</sup>See Proposed Revised Maui Stage 3 RFP, Exhibit 3 at 3 (referring to any proposed site locations identified by IPPs in their bid proposals at the Waena Firm Site).

the Waena Subdivision in the most efficient manner possible.”<sup>32</sup> Therefore, to provide further clarity and perhaps assist potential proposers on the most appropriate siting within the Waena Firm Site, the Companies are also instructed to revise Appendix F, Attachment 3,<sup>33</sup> to identify land reserved for future use and land that is unsuitable for a firm generation facility, while also incorporating County and State use restrictions and land use efficiency needs. The Companies shall also consult with the Independent Observer (“IO”) and the IE prior to initiating any relocation of the proposed project site.

Additionally, the Companies shall correct Appendix L, Attachment CC - Company-Owned Site of the Model PPA, which should be revised to reflect the “End of Term” section numbering as Section “11” and not Section “1.”<sup>34</sup>

The Companies shall file the Final Revised Maui Stage 3 RFP, which address the Commission’s modifications above, within three business days of the date of this Order. The Final Revised Maui Stage 3 RFP shall be considered approved for issuance automatically upon filing and the Companies shall reopen the firm generation portion of the Maui Stage 3 RFP three

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<sup>32</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 3 at 3-4.

<sup>33</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 3 at 9.

<sup>34</sup>See Proposed Revised Maui Stage 3 RFP, Book 2, Exhibit 6 at 288.



business days after they file the Final Revised Maui Stage 3 RFP, unless the Commission orders otherwise.

2.

Questions and Requests for Clarifications

The Commission is cognizant of the crucial reliability needs on Maui that the firm renewable capacity portion of the Maui Stage 3 RFP is designed to address and the importance of reopening of this portion of the RFP. Yet, the Commission finds that further clarification would assist IPPs who may be interested in preparing bids at the Waena Firm Site. Therefore, as noted above, the Commission requests further details and/or clarification on the following related to the Waena Firm Site, which the Companies shall provide in a separate filing within fourteen days of the date of this Order.

The Commission also instructs the Companies to publish their responses to the Commission's requests for clarifications on the Companies' website for the Maui Stage 3 RFP and disseminate them to potential proposers via the Stage 3 RFP e-mail list, within fourteen days of the date of this Order. So as not to delay the firm generation portion of the RFP any further, the responses to these questions shall not impact the timing of Hawaiian Electric's filing of the Revised Maui Stage 3 RFP, or,

unless the responses raise significant issues, Commission approval or the Companies' execution of the Revised Maui Stage 3 RFP.

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.<sup>35</sup> If so, please provide the estimated lease cost of the property, per acre, that bidders can use in their cost estimates and a detailed explanation of how that cost estimate was developed. Please also clarify whether the self-build bid will be subject to the same lease terms, and if not, please explain why not.<sup>36</sup>

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."<sup>37</sup> 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

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<sup>35</sup>See Proposed Maui Stage 3 RFP at Exhibit 3 and Exhibit 6.

<sup>36</sup>The Commission cautions the Companies that disparate treatment of the self-build bid in lease terms or any other facet of the RFP is contrary to the intent and purpose of the competitive bidding process and unacceptable to the Commission. The Companies should broadly apply all requirements and/or ensure measures are taken to maintain an even playing field to the greatest extent possible to support the fairness and integrity of the competitive bidding framework.

<sup>37</sup>Proposed Maui Stage 3 RFP Exhibit 3 at 4.

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.<sup>38</sup>

3. Regarding revisions to Section 5.1,<sup>39</sup> 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;

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;

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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<sup>38</sup>See Appendix F.

<sup>39</sup>Proposed Maui Stage 3 RFP, Exhibit 1 at 72.

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

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.

4. Regarding the zoning requirement that the Companies reserve 33 acres of land at Waena for renewable resources,<sup>40</sup> please clarify whether and how this requirement will change if the land is subdivided.

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.

6. The Community-Based Renewable Energy Program Tranche 1 RFP for Maui depicts the Waena parcel(s) as being divided

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<sup>40</sup>See Docket No. 2020-0132, "Amended Application of Maui Electric Company, Ltd.; Verification; Exhibit 1-9; and Certificate of Service; Books 1 and 2," filed on May 28, 2021, Exhibit 8 at 6 and 9.

into eight different areas/sub-parcels with the proposed Self-Build Waena Battery Energy Storage System ("BESS") located west of the Waena Switchyard.<sup>41</sup> Appendix F of the Proposed Revised Maui Stage 3 RFP, indicates that the Waena BESS site is located north of the Waena Switchyard.<sup>42</sup> 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.<sup>43</sup>

A. While recognizing that the proposed Self-Build Waena BESS has not been approved,<sup>44</sup> please discuss whether the intended location of the BESS shown in Appendix F has been finalized.

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

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

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<sup>41</sup>Docket No. 2015-0389, "The Hawaiian Electric Companies' Community Based Renewable Energy Phase 2 Tranche 1 RFPs and Model Contracts; Books 1 to 7; Filed October 9, 2020," filed on October 9, 2020, Book 1, Exhibit 1 at 7.

<sup>42</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 3 at 10.

<sup>43</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 3 at 4.

<sup>44</sup>See generally Docket No. 2020-0132.

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.

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.

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 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.<sup>45</sup>

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

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<sup>45</sup>Proposed Revised Maui Stage 3 RFP, Exhibit 3 at 3.

within the Waena Firm Site. Please clarify whether the self-build proposal will be subject to the same requirement.<sup>46</sup>

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.

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 delivered in order to provide the developer with ample notice prior to the

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<sup>46</sup>As stated above, the Commission cautions the Companies that any disparate treatment of the self-build bid is contrary to the intent and purpose of the competitive bidding process. The Companies should broadly apply all requirements and/or ensure measures are taken to maintain an even playing field to the greatest extent possible to support the fairness and integrity of the competitive bidding framework.

execution of the PPA, and under what circumstances the Companies would make such a decision.

8. Please clarify what types of information the Companies believe cannot be disclosed to potential proposers, even under an NDA, because such disclosure could result in potential proposers receiving an unfair business advantage over third parties.<sup>47</sup>

### III.

#### ORDERS

##### THE COMMISSION ORDERS:

1. The Commission approves the Proposed Revised Maui Stage 3 RFP, filed by the Companies on April 27, 2023, in connection with the procurement process to acquire renewable firm generation on Maui, with the modifications discussed above.

2. The Companies shall file the Final Revised Maui Stage 3 RFP, addressing the Commission's modifications set forth herein, within three business days of the date of this Order. The Final Revised Maui Stage 3 RFP shall be considered approved for issuance automatically and the Companies shall reopen the firm generation portion of the Maui Stage 3 RFP three business days

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<sup>47</sup>Proposed Revised Maui Stage 3 RFP at 3.




after they file the Final Revised Maui Stage 3 RFP, unless the Commission orders otherwise.

3. The Commission instructs the Companies to file their responses to the Commission's requests for clarifications with the Commission, publish them on the Companies' website for the Maui Stage 3 RFP, and disseminate them to potential proposers via the Stage 3 RFP e-mail list, within fourteen days of the date of this Order.

DONE at Honolulu, Hawaii           MAY 11, 2023          .

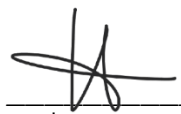
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

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

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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