

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 HAWAIIAN ELECTRIC COMPANY, INC.)
)
 For a Declaratory Order Declaring)
 That Hawaiian Electric's Bifurcation)
 For Further Consideration of the)
 Two Non-Conforming Large Wind Farm)
 Proposals from the Conforming)
 Proposal That Were Submitted Through)
 A Competitive Bidding Process in)
 Docket No. 2007-0331 Was Proper)
 _____)

DOCKET NO. 2009-0327

ORDER APPROVING THE STIPULATED
PROCEDURAL ORDER, AS MODIFIED

PUBLIC UTILITIES
COMMISSION

2009 DEC 29 P 1:13

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	
HAWAIIAN ELECTRIC COMPANY, INC.)	Docket No. 2009-0327
For a Declaratory Order Declaring)	
That Hawaiian Electric's Bifurcation)	
For Further Consideration of the)	
Two Non-Conforming Large Wind Farm)	
Proposals from the Conforming)	
Proposal That Were Submitted Through)	
A Competitive Bidding Process in)	
Docket No. 2007-0331 Was Proper)	
_____)	

ORDER APPROVING THE STIPULATED
PROCEDURAL ORDER, AS MODIFIED

By this Order, the commission approves, with modifications, the proposed Stipulated Procedural Order submitted on December 14, 2009, by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") (collectively, "Parties").¹

Specifically, the commission modifies the Schedule of Proceedings to include a hearing on the Petition. The Parties had proposed the filing of "Simultaneous Statements of Position ('SOP')" on January 14, 2010, and "Oral Arguments on the Motion, if necessary"² on a date "To be determined." The January 14, 2010 deadline for "Simultaneous Statements of

¹The proposed Stipulated Procedural Order is attached as Exhibit 1 to this Order.

²The reference to oral argument on the "Motion" is confusing, as there is no pending motion.

Position ('SOP')" will remain unchanged, but the commission deletes the reference to "Oral Arguments on the Motion, if necessary" and sets a date for hearing on February 24, 2010,³ with simultaneous post hearing opening and reply briefs due three weeks and two weeks, respectively, after transcripts are filed with the commission.

As this matter is being set for hearing, the commission declines to issue a declaratory order within forty-five days of the filing of the Petition, pursuant to Hawaii Administrative Rules § 6-61-162.

DONE at Honolulu, Hawaii DEC 29 2009.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

By: 
Leslie H. Kondo, Commissioner

2009-0327.cp

³If the Parties intend to waive hearing, they shall notify the commission in writing by February 12, 2010.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of

HAWAIIAN ELECTRIC COMPANY, INC.

For a Declaratory Order Declaring that Hawaiian Electric's
Bifurcation for Further Consideration of the Two
Non-Conforming Large Wind Farm Proposals from the
Conforming Proposal that Were Submitted Through a
Competitive Bidding Process in Docket No. 2007-0331
Was Proper.

DOCKET NO. 2009-0327

2009 DEC 14 P 3:59
PUBLIC UTILITIES
COMMISSION

FILED

STIPULATED PROCEDURAL ORDER

AND

CERTIFICATE OF SERVICE

EXHIBIT 1

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of

HAWAIIAN ELECTRIC COMPANY, INC.

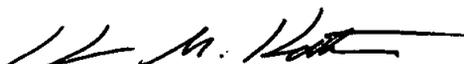
DOCKET NO. 2009-0327

For a Declaratory Order Declaring that Hawaiian Electric's
Bifurcation for Further Consideration of the Two
Non-Conforming Large Wind Farm Proposals from the
Conforming Proposal that Were Submitted Through a
Competitive Bidding Process in Docket No. 2007-0331
Was Proper.

STIPULATED PROCEDURAL ORDER

Applicant Hawaiian Electric Company, Inc. ("Hawaiian Electric") and the Division of
Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer
Advocate") hereby stipulate that the attached Stipulated Procedural Order is mutually acceptable
to each respective party.

DATED: Honolulu, Hawaii, December 14, 2009.



KEVIN M. KATSURA
Associate General Counsel
Hawaiian Electric Company, Inc.



JONS. ITOMURA
LANE H. TSUCHIYAMA
Attorneys for the Division of Consumer Advocacy
Department of Commerce and Consumer Affairs

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of

HAWAIIAN ELECTRIC COMPANY, INC.

DOCKET NO. 2009-0327

For a Declaratory Order Declaring that Hawaiian Electric's Bifurcation for Further Consideration of the Two Non-Conforming Large Wind Farm Proposals from the Conforming Proposal that Were Submitted Through a Competitive Bidding Process in Docket No. 2007-0331 Was Proper.

STIPULATED PROCEDURAL ORDER

On November 16, 2009, Hawaiian Electric Company, Inc. ("Hawaiian Electric") filed a Petition for Declaratory Order requesting that the Commission issue a declaratory order declaring that Hawaiian Electric's bifurcation for further consideration of the two non-conforming proposals from the conforming proposals that were submitted through the competitive bidding process in Docket No. 2007-0331, Competitive Bidding Proceeding for Renewable Energy on Oahu, was proper.¹ Hawaiian Electric served copies of the Petition on the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate").

By Order Instructing the Parties to Submit a Stipulated Procedural Order, filed December 1, 2009, the Commission directed the Parties² to submit a stipulated procedural order for the commission's review and consideration by December 14, 2009.

¹ Petition for Declaratory Order; Memorandum in Support of Petition for Declaratory Order; Attachments 1-2; Verification; and Certificate of Service, filed on November 16, 2009 (collectively, "Petition").

² The Parties are Hawaiian Electric and the Consumer Advocate, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

Hawaiian Electric and the Consumer Advocate have reached agreement on procedural matters and submit this Stipulated Procedural Order to the Commission, which is acceptable to the parties.

ACCORDINGLY, IT IS ORDERED that the following Statement of the Issues, Schedule of Proceedings and procedures shall be utilized in this docket.

I.

STATEMENT OF THE ISSUES

The issues in this docket are:

1. Whether Hawaiian Electric's bifurcation for further consideration of the two non-conforming proposals for large wind farms on the island of Lanai and Molokai ("Big Wind Projects") from the conforming proposals that were submitted through the competitive bidding process in Docket No. 2007-0331, Competitive Bidding Proceeding for Renewable Energy on Oahu, was proper.
2. Whether the Big Wind Projects comply with the Framework for Competitive Bidding, i.e., whether the Big Wind Projects were competitively bid.
 - a. Whether the scope of the Oahu Request for Proposals was proper.
 - b. Whether there was sufficient notice to potential bidders of the ability to file non-conforming proposals.
 - c. Whether bifurcation of the non-conforming proposals was proper.
 - d. Whether selection of all non-conforming proposals was appropriate.
3. Whether a waiver from the Framework for Competitive Bidding for the Big Wind Projects is appropriate.

location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request may make the diskette or such electronic medium available to the other party and the Commission.

A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information pursuant to a protective order governing this docket.

A party seeking production of documents notwithstanding a party's claim of

confidentiality, may file a motion to compel production with the Commission.

B. Matters of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that Hawaiian Electric has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to electric utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the Commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

C. Copies of Filings, Information Requests, Responses to Information Requests,

Statement of Position:

1. Filings:

Commission	Original + 8 copies
Consumer Advocate	2 copies
Hawaiian Electric	2 copies

2. All pleadings, and other documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, subchapter 2,

section 6-61-16 of the Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, subchapter 2, section 6-61-15 of the Commission's Rules of Practice and Procedure.

3. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or United States mail (first class, postage prepaid). In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via CD or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000, or Word 2003 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via CD or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or United States mail (first class, postage prepaid) as provided above.

D. Communications

Chapter 61, subchapter 3, section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall also be served on opposing counsel, if any.

E. General

These procedures are consistent with the orderly conduct of this docket. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

APPROVED AND SO ORDERED THIS _____,

at Honolulu, Hawaii.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
John E. Cole, Commissioner

By _____
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Commission Counsel

CERTIFICATE OF SERVICE

The foregoing Stipulated Procedural Order was served on the date of filing by mail,
postage prepaid and properly addressed to the following parties:

EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P.O. Box 541
Honolulu, HI 96809

DEAN K. MATSUURA
MANAGER, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840-0001

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

DEAN NISHINA
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

DEAN K. MATSUURA
MANAGER, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840-0001