

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting a Proceeding to)
 Investigate Competitive Bidding)
 for New Generating Capacity in)
 Hawaii.)
 _____)

DOCKET NO. 03-0372

ORDER NO. 24170

Filed April 30, 2008

At 10 o'clock A.M.

for *Stanford D.*
Chief Clerk of the Commission

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DEPT. OF COMMERCE AND
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STATE OF HAWAII

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii

for *Stanford D.*

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OF THE STATE OF HAWAII

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Investigate Competitive Bidding)
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_____)

Docket No. 03-0372

Order No. 24170

ORDER

By this Order,¹ the commission: (1) instructs the HECO Companies to file by May 30, 2008, an updated version of their Updated Status Report on Non-Fossil Fuel Power Purchase Offers, which was filed on March 31, 2008 ("Updated Status Report"); and (2) sets a deadline of September 2, 2008, for HECO to reach agreement on term sheets for three HECO projects that are grandfathered from the competitive bidding process, as further discussed in this Order, below.

¹The Parties are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, the "HECO Companies"), KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62(a).

I.

Background

On December 8, 2006, the commission issued Decision and Order No. 23121, in which it adopted a Framework for Competitive Bidding as a mechanism for acquiring or building new energy generation in the State ("Framework").²

Part II.A.3.e of the Framework states:

This Framework does not apply to: (i) the three utility projects currently being developed: Hawaiian Electric Company, Inc.'s Campbell Industrial Park CT-1, Hawaii Electric Light Company, Inc.'s Keahole ST-7, and Maui Electric Company, Ltd.'s Maalaea M-18; (ii) offers to sell energy on an as-available basis by non-fossil fuel producers that were submitted to an electric utility before this Framework was adopted; and (iii) offers to sell firm energy and/or capacity by non-fossil fuel producers that were submitted to an electric utility before this Framework was adopted, or that resulted from negotiations with respect to offers to sell energy on an as-available basis by non-fossil fuel producers that were submitted to an electric utility before this Framework was adopted; provided that negotiations with respect to such firm energy and/or capacity offers are concluded no later than December 31, 2007.

Framework, Part II.A.3.e (emphasis added).

Footnote 10 of Decision and Order No. 23121 states:

The offers from non-fossil fuel producers that are exempt from competitive bidding under Part II.A.3.e of the Framework are limited to those set forth in: (1) KIUC's Oral Argument Hearing Exhibit A, dated June 19, 2006; and (2) the HECO [Companies'] list submitted to the commission and the Consumer Advocate under confidential protective order on June 27, 2006, as updated by the HECO [Companies] on September 11, 2006.

²Decision and Order No. 23121, filed on December 8, 2006, with the Framework for Competitive Bidding, dated December 8, 2006, attached.

Decision and Order No. 23121, at 7 n.10 (emphasis added).

On March 31, 2008, the HECO Companies filed "an updated status report on the non-fossil fuel power purchase offers described in their June 27, 2006 and September 11, 2006 lists[,] "³ in response to the commission's directive.

II.

Discussion

On April 18, 2008, the commission held a conference with the Parties⁴ "for the purpose of discussing and setting a deadline date to conclude as-available energy negotiations for those projects that are exempt from the Framework for Competitive Bidding."⁵ At the outset of the conference, the commission explained its intent to set a deadline for the grandfathered HECO

³HECO Companies' Transmittal Letter, dated March 31, 2008, at 1, with the Updated Status Report on Non-Fossil Fuel Power Purchase Offers enclosed. As instructed by the commission, the HECO Companies filed redacted and unredacted versions of the Updated Status Report. The redacted version identifies by name only certain developers of the non-fossil fuel purchase offers, while the unredacted version identifies under confidential seal all of the developers. The HECO Companies served redacted and unredacted versions of the Updated Status Report on the Consumer Advocate, and only a redacted version upon KIUC and HREA.

⁴Chairman Carlito P. Caliboso presided over the conference, with Commissioners John E. Cole and Leslie H. Kondo in attendance. Representatives from the HECO Companies, KIUC, HREA, and the Consumer Advocate also attended the conference. The Independent Observer for In re Public Util. Comm'n, Docket No. 2007-0331 ("Docket No. 2007-0331"), the pending commission proceeding that involves HECO's proposal to proceed with a competitive bidding process to acquire approximately 100 megawatts of non-firm renewable energy for the island of Oahu, also participated by telephone.

⁵Commission's letter, dated April 10, 2008, at 1.

projects (at a minimum), so that the competitive bidding process in Docket No. 2007-0331 could move forward without hindrance or delay from any grandfathered project. The Updated Status Report was utilized as the basis for discussions at the conference.⁶ The HECO Companies represented that except for Projects 1, 2, and 3 identified for the island of Oahu in the redacted version of the Updated Status Report, all of the HECO grandfathered projects identified for Oahu no longer qualified for the exemption or were otherwise no longer viable.⁷ At the conclusion of the discussions, the commission: (1) instructed the HECO Companies to update the Updated Status Report; and (2) found it prudent and feasible to set a deadline date of September 2, 2008, for HECO to reach agreement on term sheets for the three HECO projects identified as Projects 1, 2, and 3 in the redacted version of the Updated Status Report.⁸ This Order memorializes the decisions made by the commission as a result of the conference.

III.

Orders

THE COMMISSION ORDERS:

1. By May 30, 2008, the HECO Companies shall file a current, Updated Status Report with the commission, with the

⁶Based on the Parties' agreement, the HECO projects were discussed in camera, with the representatives from KIUC and HREA excused from the in camera portion of the discussions.

⁷This order does not pertain to or address any grandfathered projects identified by MECO for the County of Maui or HELCO for the island of Hawaii.

⁸See Updated Status Report, at 1-5 (redacted version).

applicable versions (redacted, unredacted) served on the other parties.

2. HECO shall have a deadline of September 2, 2008, to reach material agreement on any or all of three remaining HECO grandfathered projects as evidenced in writing by fully executed term sheets for any or all of the three HECO projects identified as Projects 1, 2, and 3 in the redacted version of the Updated Status Report, and to file fully executed copies of the same with the commission. The items agreed upon in each term sheet shall include information on: (A) the scope of the project (i.e., technology, capacity, and location); (B) the manner in which the energy will be delivered (i.e., as-available, scheduled); (C) the term of the agreement, projected in-service date, and key milestones, including, but not limited to, proof of concept and any phases of the project; (D) performance standards; and (E) pricing.

3. The grandfathered exemption shall no longer apply to any remaining grandfathered HECO project on Oahu for which a fully executed term sheet is not filed by HECO with the commission by the stated deadline.

DONE at Honolulu, Hawaii APR 30 2008.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

03-0372.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24170 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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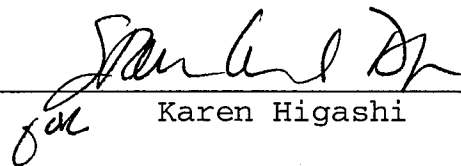
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Certificate of Service
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for Karen Higashi

DATED: APR 30 2008