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October 18, 2005

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PUBLIC UTILITIES  
COMMISSION

The Honorable Chairman and Members of the  
Hawaii Public Utilities Commission  
465 South King Street, First Floor  
Kekuanaoa Building  
Honolulu, Hawaii 96813

Dear Commissioners:

Subject: Docket No. 03-0372  
Competitive Bidding for New Generation

Attached are HECO/HELCO/MECO's (collectively referred to as the Companies) information requests (FIRs) regarding the Final Statements of Position filed by: (1) the Division of Consumer Advocacy, (2) Kauai Island Utility Cooperative, and (3) Hawaii Renewable Energy Alliance. HECO does not have FIRs for the County of Kauai, Hess Microgen, LLC, or Johnson Controls, Inc.

Also enclosed is a CD with an electronic copy (in Word 2003 and PDF formats) of the Companies' FIRs. (A copy of the Word and PDF files was emailed to the parties and participants on October 18, 2005.)

Sincerely,

Attachments

cc: Division of Consumer Advocacy (with CD)  
K. Morihara, Esq./M. Lau, Esq. (with CD)  
H. Achenbach  
W. Bollmeier II (with CD)  
J. Crouch  
R. Reed  
S.A. Wong, Esq. (with CD)  
C. Colman, Esq.  
M. de'Marsi  
T. Gorak, Esq. (with CD)  
G. Bull  
L. Nakazawa, Esq. (with CD)  
G. Sato

**HECO/HELCO/MECO**  
**Final Statement of Position (“SOP”) Information Requests (“FIRs”)**  
**to the Division of Consumer Advocacy (“CA”)**

**HECO/CA-FIR-1**    Ref: CA Final SOP, pages 2-3.

Please explain in detail the basis for the conclusion: “Thus, competitive bidding can be implemented with little, if any, additional regulatory processes”.

**HECO/CA-FIR-2**    Ref: CA Final SOP, pages 2, 3 and 5.

The CA states on pages 2 and 3 that “competitive bidding can be implemented with little, if any, additional regulatory processes” and that “there is no reason to delay its implementation and the benefits that it offers consumers.” On page 5, the CA identifies five steps through which a competitive bidding system can be accomplished. Assuming the Commission follows the CA’s recommendations, such that there are no additional regulatory processes related to competitive bidding and that the Commission follows the CA’s five steps. Assuming further that HECO’s IRP-3 is filed with the Commission in October 2005.

- a. Does the CA believe that the regulatory proceeding for HECO IRP-3 would affect the timing with respect to when the utility can begin designing its proposed RFP, when the Commission can approve the utility’s proposed RFP, and when the utility can issue the Commission-approved RFP?
- b. If the CA’s answer to part a is ‘yes,’ please provide the CA’s estimates for:
  - 1) when the Commission would be able to approve the utility’s proposed RFP (relative to the timing of the IRP proceeding) and
  - 2) when the utility can issue the Commission-approved RFP (relative to the timing of the IRP proceeding).

**HECO/CA-FIR-3**    Ref: CA Final SOP, pages 2, 3 and 5.

The CA recommends immediate implementation of a competitive bidding system. Assuming the Commission follows the CA’s recommendations and implements a competitive bidding system immediately:

- a. What is the CA’s position on what should be done on any proposals for capacity and/or energy which HECO, HELCO and MECO may already have in hand at the time a competitive bidding system is implemented?
- b. What is the CA’s position as to whether or not HECO, HELCO or MECO should be allowed to proceed with issuing an RFP for resources if their major IRP filings or their Preferred Plans have not been approved by the Commission?

**HECO/CA-FIR-4** Ref: CA Final SOP, page 5.

Page 5 lists “five straightforward steps” to be done to put in place a competitive bidding system.

- a. For each of the five steps, please provide the time the CA estimates it will take to complete.
- b. The fifth step listed is “[t]he utility issues its Commission-approved RFP.” How long does the Consumer Advocate estimate it will take to go from this fifth step to having a winning bidder’s project placed in service. As part of the response, please provide the Consumer Advocate’s estimate of the time it will take to complete the following milestones:
  - 1) Issuance of a decision and order in this docket;
  - 2) Receive responses to the Commission-approved RFP;
  - 3) Evaluate and decide on the project to be pursued (i.e., determine the winning bidder);
  - 4) Negotiate the contract;
  - 5) Obtain Commission approval of the contract; and
  - 6) Winning bidder placing the project in service (as part of this response, please provide the estimated time to obtain control of the site of the project and the necessary permitting approvals).
- c. Please provide the basis for each of the responses to subpart “b”. Also, please indicate if the Consumer Advocate’s time estimate includes any additional time to address contingencies (e.g., challenges to the process by other bidders, delays in obtaining permitting approvals, etc.).

**HECO/CA-FIR-5** Ref: CA Final SOP, pages 8 & 41 – 42.

Page 8 of the Consumer Advocate’s Final Statement of Position states that the IRP Action Plan should establish the parameters of the RFP. Page 41 then states that “head to head” competition between DSM and supply-side solutions to any resource need often is desirable – even if the demand-side measures ultimately can address only a portion of a utility’s total incremental need.

- a. Is it the CA’s position that, upon inspection of the RFP responses, the utility could proceed to implement substantially more DSM than described in the IRP Action Plan, if “head to head” competition between demand and supply-side resources favored DSM? Please explain your response.
- b. Is it the CA’s position that, upon inspection of the RFP responses, the utility could proceed to implement substantially more supply-side than described in the IRP Action Plan, if “head to head” competition between demand and supply-side resources favored supply-side resources? Please explain your response.
- c. Should the IRP Action Plan contain an “indefinite” level of DSM and supply-side resources, to allow for flexibility in evaluating all-source RFP responses?
- d. In the example given, where the RFP response can address only a portion of a utility’s total incremental need, please explain the mechanism that the utility should use to fulfill the unmet need. For example, should the unmet increment now be issued as a second RFP?

**HECO/CA-FIR-6** Ref: CA Final SOP, pages 10-11.

To support its position that competitive bidding can be implemented without an additional regulatory proceeding, the CA pointed out that "KIUC states that it intends to use a competitive bidding process for its next generation addition, and that it will follow the 'proven' process that was used in 1995 to secure its 26.4 megawatt generating facility (see KIUC's Statement of Position at 3, 6). The HECO Companies also use competitive bidding today. They indicate that it is in use for the procurement of equipment and services as a cost management measure (HECO Companies' Initial SOP, Exhibit A at 14. They indicate that they recently issued an RFP for generating supplies (see HECO Companies response to PUC-IR-15, at 6). As noted in the Consumer Advocate's Initial Statement of Position at 16, the HECO Companies' affiliate Renewable Hawaii, Inc. recently issued an RFP soliciting competitive proposals from developers of renewable power projects."

- a. Did KIUC submit its own bid to compete with non-utility bids in response to the 1995 RFP?
- b. If the answer to part a is 'yes,' did KIUC both bid and evaluate the proposals?
- c. If the answer to part b is 'yes,' what role did the Commission play in ensuring fair process?
- d. Does the CA see any difference between the competitive bidding process for the procurement of equipment and services and that for the acquisition of long-term commitments for capacity and energy through power purchase agreements?
- e. If the answer to part d is 'yes,' please identify the differences.
- f. Does the CA acknowledge that the HECO Companies did not submit its own bids in its solicitation for procurement of equipment, services, and generating supplies (which include such items as turbines, generators, boilers, pumps, breakers and transformers)?
- g. Does the CA acknowledge that neither HECO nor Renewable Hawaii Inc. ("RHI") submitted proposals in response to RHI's RFP?

**HECO/CA-FIR-7** Ref: CA Final SOP, pages 10-11.

The CA states that there are three "primary reasons" why an additional regulatory proceeding is not necessary before competitive bidding can be implemented and goes on to list the three primary reasons. With respect to the first reason listed on pages 10 through 11, please describe the CA's understanding of the competitive bidding process the HECO Companies use today (e.g., specific details as to how the competitive bidding process is conducted, the type of equipment and services that are the subject of the competitive bidding process, the length of time the process takes, etc.) and the basis for the CA's understanding.

**HECO/CA-FIR-8** Ref: CA Final SOP, page 14.

The CA states that it has fashioned its guidelines after the "major competitive bidding guidelines" adopted by the Oregon Public Utility Commission in Order No. 91-1383 (1991). Is the CA aware that the development of the "guidelines" was initiated on May 30, 1989, when the Commission ordered an informal staff investigation into competitive bidding and culminated in a Commission Order on October 18, 1991?

**HECO/CA-FIR-9** Ref: CA Final SOP, page 18.

The CA states that the Commission should view “best practices” in the same way that it views “good engineering practice” or “generally accepted accounting principles”.

- a. Is the definition of “best practices” capable of being defined differently by the different entities involved in a competitive bidding process (e.g., utility, independent power producer, CA, etc.)?
- b. Would “generally accepted accounting principles” be subject to the same level of interpretation as “best practices” for competitive bidding or would they be standard principles. Please fully explain your response.

**HECO/CA-FIR-10** Ref: CA Final SOP, page 18.

The CA states “the Consumer Advocate ultimately suggests that the Electric Utility Companies use ‘good solicitation practices’ in the design and implementation of their RFP processes. Perfection is not the goal. Rather the expectation is that reasonable efforts be made to identify and implement practices that will be effective in serving the interests of the utility and its ratepayers. Where two good approaches to a given problem are identified, the Consumer Advocate would recommend that the utility be granted a measure of discretion in selecting the one that it judges to be best suited to the task.”

- a. Please define what the Consumer Advocate means by the term “good solicitation practices”.
- b. Please provide multiple examples from competitive bidding processes used by other utilities that the Consumer Advocate deems to be “good solicitation practices”. Please provide copies of the competitive bidding rules and/or guidelines of the utilities referred to by the Consumer Advocate as examples.
- c. Please define what the Consumer Advocate means by “reasonable efforts be made to identify and implement practices that will be effective in serving the interests of the utility and its ratepayers”.
- d. Please provide multiple examples from competitive bidding processes used by other utilities where the Consumer Advocate has determined that the utilities have made “reasonable efforts . . . to identify and implement practices that will be effective in serving the interests of the utility and its ratepayers”. Please provide copies of the competitive bidding rules and/or guidelines of the utilities referred to by the Consumer Advocate as examples.

**HECO/CA-FIR-11** Ref: CA Final SOP, pages 17-24, Appendix F2.

In the above-referenced portions of the Consumer Advocate’s Final Statement of Position, the Consumer Advocate refers to “best practices” in the design and implementation of competitive bidding processes.

- a. Please provide the name of each utility that uses the Consumer Advocate’s proposed “best practices” approach in their competitive bidding processes.
- b. For each utility named, please provide a copy of each utility’s guidelines and/or rules for competitive bidding.
- c. How will the utility be assured that the “best practices” it has identified will be acceptable to the Commission? Is it the Consumer Advocate’s position that the “best practices” be submitted to the Commission for approval prior to solicitation? Please fully explain the responses.

- d. For each utility identified in subpart “a”, please provide a copy of the most recent utility submission to the public utility commission that was the utility’s effort to demonstrate that the utility satisfied the “best practices” requirement.

**HECO/CA-FIR-12** Ref: CA Final SOP, page 26, footnote 12.

Please provide specific examples (including the name of the utilities and dates of the process) of evaluation processes that have been conducted where representatives of bidders (or their agents) have been allowed to observe the process in which bids were selected, having first signed confidentiality agreements.

**HECO/CA-FIR-13** Ref: CA Final SOP, pages 29, 30 and 33.

The CA states that “[w]here the utility does not seek to advance its project (i.e., over those of other developers), the utility...[m]ust develop a “backstop” proposal to a degree consistent with prudent planning, such that the utility is able to respond in a reasonable timeframe if the competitive bidding process unexpectedly fails to produce a viable project proposal.” On page 33, the CA cites examples of when competitive bidding processes may fail to yield viable projects.

- a. How long should the utility incur costs and continue with its backstop proposal before it can conclude that the non-utility project will be successfully accomplished?
- b. Does the CA agree that the utility should be allowed to recover all of its prudently incurred costs to prepare and implement with its backstop proposal until such time that it is stopped? If not, why not?

**HECO/CA-FIR-14** Ref: CA Final SOP, page 34.

The CA states that the utility should only be allowed to prepare one proposal.

- a. Is the CA’s position based on a single proposal “winning the bid”?
- b. What happens if there is a smaller project than the amount requested that is the best bid but no other bids can “fill in” the remaining requirements?
  1. Should the utility then offer a smaller “backstop” project to fill the remaining resource requirements or should the best bid be eliminated and a “sub-optimal” project win the bid.

**HECO/CA-FIR-15** Ref: CA Final SOP, pages 37-38.

The Consumer Advocate stated “Moreover, the Consumer Advocate recommends that, whether the utility participates directly, or indirectly in its solicitation, the utility’s proposal should be held to the same ‘price’ and ‘non-price’ contract terms as would apply to all bidders. As with price bids, to allow utilities flexibility not afforded to other participants in RFP processes would be to grant the utility an implicit advantage.” Is it the Consumer Advocate’s position, that in a competitive bidding process where the utility is participating as a bidder in its own solicitation process, implementation of “best practices” will result in a contract with terms and conditions that are not subject to negotiation (provided the utility was held to the same non-negotiable terms and conditions)? Please fully explain your response.

**HECO/CA-FIR-16** Ref: CA Final SOP, page 41.

Please explain the process recommended by the CA for procuring supply-side and DSM resources in the same RFP.

- a. Please describe the methodology in detail by which supply-side and DSM resources will be evaluated.
- b. Should the evaluation or scoring criteria be the same or different?
- c. Is the CA aware that the Executive Summary to the Oregon bidding guidelines on which the CA fashions its guidelines (see page 14) states that "Conservation has unique evaluation criteria which require that demand-side and supply-side bid solicitations be conducted separately"?

**HECO/CA-FIR-17** Ref: CA Final SOP, page 44.

The Consumer Advocate stated that "[t]hus, the Consumer Advocate recommends that competitive solicitations accommodate a broad range of resource options, unless clear reasons for doing otherwise are presented."

- a. Please fully explain what the Consumer Advocate means by the term "clear reasons".
- b. Please provide factual circumstances that would constitute "clear reasons for doing otherwise". Please fully explain the response.
- c. Please provide factual circumstances that would not constitute "clear reasons for doing otherwise". Please fully explain the response.

**HECO/CA-FIR-18** Ref: CA Final SOP, pages 44-45.

Pages 44 through 45 of the Consumer Advocate's Final Statement of Position discusses avoided costs.

- a. Please describe how the Consumer Advocate proposes to include the additional balance sheet restructuring costs incurred as a result of the debt or debt-like features of long-term purchase power agreements in avoided costs.
- b. If the balance sheet restructuring costs are not proposed to be addressed in the avoided cost calculation, who does the Consumer Advocate propose should pay for the additional balance sheet restructuring costs. Please fully explain the response.
- c. Please describe how the Consumer Advocate proposes to address additional transmission costs incurred as a result of new generation obtained through the competitive bidding process in the avoided cost calculation. Please fully explain the response.
- d. If the transmission costs are not proposed to be addressed in the avoided cost calculation, who does the Consumer Advocate propose should pay for the additional transmission costs. Please fully explain the response.

**HECO/CA-FIR-19 CA Final SOP.**

The CA's position is that HECO could easily develop and implement an effective competitive bidding process.

- a. How long would the CA expect that a competitive bidding process, including the development of the RFP, model contracts and other information take to issue? Please provide the CA's estimated time to complete each of these stages.
- b. Would the CA expect input or comments from other interested parties into the development of an RFP?
- c. How long would the Commission have to approve the RFP?
- d. Please identify the specific tasks required of the utility to prepare and implement an effective competitive bidding process? For each specific task identified, please provide the CA's estimated time to complete each task.

**HECO/CA-FIR-20 CA Final SOP.**

Over the past few years, several states have either drafted bidding rules or guidelines or are in the process of revising rules or guidelines. Utilities in the following states have issued or are proposing to issue RFPs for power supply resources under such rules or guidelines:

- Oregon (Order No. 91-1383 and OPUC Docket No. UM 1182)
  - Florida (Order No. PSC-03-0653-FOF-EQ)
  - Louisiana (Docket No. R-26172 Sub Docket A)
  - Utah (S.B. 198)
  - Arizona (Docket No. E-01933A-02-0069; Decision No. 65743)
  - Georgia (Docket No. 19225-U)
  - Oklahoma (CAUSE RM NO. 200500011; Proposed Rules)
  - Washington
- a. For each of these states, please state whether it is the CA's position that:
    1. There are formal bidding rules in place in the state under which the competitive bidding process is undertaken.
    2. There are bidding guidelines in place under which the competitive bidding process is undertaken
    3. The competitive bidding process is undertaken based on "best practices".
  - b. For each response to subpart a, explain the basis for your conclusion. Would the CA classify any of these rules or guidelines as "prescriptive"?

**HECO/CA-FIR-21 CA Final SOP, Appendix F1, page 2**

Paragraph 6 states "A commercial contract is the expected result of the competitive bidding processes. A proposed contract should be included with each RFP."

- a. Please describe what the Consumer Advocate means by "proposed contract". As part of the response please provide the level of detail included in the proposed contract, and identify what terms and conditions would not be included in the proposed contract (if any).
- b. Are the terms and conditions included in the "proposed contract" subject to negotiation by the bidders? For example, would financial terms of a contract, such as security requirements, liquidated damages, and similar terms and conditions be subject to negotiations?

- c. Please provide multiple examples of “proposed contracts” from other utilities’ competitive bidding processes.

**HECO/CA-FIR-22** CA Final SOP, Appendix F1, page 2.

Paragraph 8 states “Each utility shall take steps to encourage participation from the full range of prospective bidders.” Please identify what the Consumer Advocate means by “take steps to encourage participation”. As part of the response identify the specific acts that the Consumer Advocate suggests each utility take.

**HECO/CA-FIR-23** CA Final SOP, Appendix F1, page 3

Paragraph 13 provides a number of requirements that must be met if a utility seeks to advance its project.

- a. Please fully explain what the Consumer Advocate means by “well-developed”. As part of the response, please provide the level of detail needed on a project for it to be “well developed”. In addition, please state whether a site needs to be identified in order for a project to be “well developed”, whether the utility needs to have site control (i.e., control of a site for the project) for a project to be “well developed”, and if permits and approvals need to be obtained for a project to be “well developed”.
- b. In order for a bidder to respond to a utility’s RFP, does the bidder need to have site control? Does a bidder need to have the permits and approvals obtained?

**HECO/CA-FIR-24** CA Final SOP, Appendix F1, page 3

Paragraph 14 provides a number of requirements that must be met if the utility does not seek to advance its project.

- a. Please fully explain how the utility would “demonstrate that there is no reason to believe that relying on the market to provide the needed resource is prudent”.
- b. Please provide factual circumstances that would satisfy this requirement.

**HECO/CA-FIR-25** CA Final SOP, Appendix F1, page 5

Paragraph 20 states “[t]he Commission will resolve disputes that arise among parties during the course of a utility’s competitive bidding process.”

- a. Please fully explain the process that the Consumer Advocate recommends the Commission use to resolve disputes.
- b. Does the Consumer Advocate’s process include the opportunity for an evidentiary hearing? As part of the response, please provide the Consumer Advocate’s estimate of the length of time it will take for the Commission to resolve the disputes.

**HECO/CA-FIR-26** CA Final SOP, Appendix F1, page 5

Paragraph 24 states “[t]he Commission shall consider each utility’s performance in implementing competitive bidding in determining the utility’s allowed rate of return in future rate proceedings.”

- a. Please describe how the Consumer Advocate recommends the Commission “consider each utility’s performance in implementing competitive bidding in determining the utility’s allowed rate of return in future rate proceedings”.
- b. Does the Consumer Advocate suggest any formula for the Commission to use or a range of guidelines that the Commission should use in this process?

**HECO/CA-FIR-27** CA Final SOP, Appendix F1, page 2

Paragraph 9 states that “[b]id evaluation should include both price and non-price factors (e.g., dispatch ability, availability, environmental impacts).”

- a. Please fully describe how the “price and non-price factors” should be considered in the bid evaluations. As part of the response please state whether the Consumer Advocate suggests that the “price and non-price factors” be assigned some weighted values.
- b. With respect to the price factors, does the Consumer Advocate believe that all costs to customers associated with the proposal (e.g., transmission costs/interconnection costs, system operational costs, and balance sheets impacts associated with PPA debt obligations) should be included in the evaluation of bids? Please fully explain the response.

**HECO/HELCO/MECO**  
**Final Statement of Position (“SOP”) Information Requests (“FIRs”)**  
**to the Kauai Island Utility Cooperative (“KIUC”)**

**HECO/KIUC-FIR-1**    Ref: KIUC Final SOP, pages 3 and 4.

KIUC indicated that in 1995 it used a competitive bidding process to secure a purchase power agreement with Kauai Power Partners for a 26.4 MW electric generating facility. KIUC further states that it intends to continue to use a competitive bidding process for its next generation addition(s).

- a. Did KIUC (Kauai Electric [“KE”] at the time) submit its own bid in response to the 1995 solicitation?
- b. If the answer to part a is ‘yes,’ did KE both bid and evaluate the bids in 1995?
- c. If the answer to part b is ‘yes,’ what role did the Commission play in ensuring a fair process?
- d. Does KIUC plan to submit its own bid in response to future solicitations for capacity and/or energy on its system?
- e. If a competitive bidding system will allow a utility to both bid and evaluate the bids, does KIUC believe that the Commission should establish a framework or guidelines such that the Commission’s role is defined and that the process is fair?

**HECO/HELCO/MECO**  
**Final Statement of Position (“SOP”) Information Requests (“FIRs”)**  
**to the Hawaii Renewable Energy Alliance (“HREA”)**

**HECO/HREA-FIR-1**    Ref: HREA Final SOP, page 8.

- a. Please explain how system efficiency will improve over time if there is a shift away from Central Generation and Decentralized Central Generation to Distributed Generation.
- b. Please provide copies of all studies, reports, or other documentation supporting such a conclusion.
- c. Please provide specifics regarding the efficiency of the technologies assumed for each generation category defined above.

**HECO/HREA-FIR-2**    Ref: HREA Final SOP, page 10.

HREA states that the likely result of competitive bidding will be lower costs.

- a. If the utility is not allowed to “bid” and the utility could potentially develop the lowest cost resource option, wouldn’t consumers be worse off with a “sub-optimal” resource option?
- b. Please explain in detail how HREA’s recommendation for not allowing an IOU bid can lead to the lowest cost resource option for consumers.

**HECO/HREA-FIR-3**    Ref: HREA Final SOP, page 11.

As illustrated in its discussion, HREA refers only to rate increase risk.

- a. Does HREA define risk as only applying to rate increases?
- b. If not, what other risks does HREA believe should be addressed through the competitive bidding process?

**HECO/HREA-FIR-4**    HREA Final SOP, page 15.

HREA has revised its Models 1 and 2 from its Final Statement of Position to allow the utility more involvement in conducting the review and evaluation of bids. Please explain why HREA has proposed such a revision to its original position.

**HECO/HREA-FIR-5**    HREA Final SOP, page 17.

- a. Please provide a definition of Standard Offer Contract (SOC).
- b. Please explain in detail the basis for HREA statement that if a bidder sees a model PPA instead of SOC in a solicitation package, he may be hesitant to submit a proposal.
- c. Please provide examples of other utilities and/or states that have utilized the same approach (i.e. use of a SOC rather than a PPA) suggested by HREA for cases in which the utility is seeking a long-term contractual arrangement for power supplies from new generating resources.
- d. Please provide copies of Standard Offer Contracts included in a competitive bidding process from other states where utilities have solicited bids for new long-term resources through a competitive bidding process.