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PUBLIC UTILITIES  
COMMISSION

**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

**MOTION TO INTERVENE  
AND CERTIFICATE OF SERVICE OF  
JOHNSON CONTROLS, INC., AND PACIFIC MACHINERY, INC.**

Pursuant to Subchapter 4 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of Hawaii ("Commission" or "PUC"), Chapter 61, Title 6, of the Hawaii Administrative Rules ("Commission's Rules of Practice and Procedure"), Johnson Controls, Inc., and Pacific Machinery, Inc. (hereinafter jointly referred to as the "Hawaii Energy Services Companies"), hereby file their motion to intervene and certificate of service in the above-captioned docket, which was instituted by the Commission in Order No. 20583, dated October 21, 2003, as an investigation of competitive bidding for new generating capacity in Hawaii. In support of this pleading, the Hawaii Energy Services Companies state as follows:

## **I. INTRODUCTION**

The purpose of this investigation is to evaluate competitive bidding as a mechanism for acquiring or building new generating capacity in Hawaii. Order No. 20583, p. 1. As the Commission observes, the competitive bidding process has been widely implemented in the United States and may be available as a means for Hawaii to facilitate wholesale market competition and to enhance the potential for both higher efficiency and lower energy costs for the generation of electricity in Hawaii. *Id.*

Order No. 20583 complements the Commission's Order No. 20582 in Docket No. 03-0371, in which the Commission has embarked upon an investigation of the potential impacts and benefits of distributed generation on Hawaii's electric distribution systems and markets. Taken together, these two dockets will serve to address issues concerning how competition in electricity markets can be realistically introduced and implemented in the State of Hawaii. Obviously, Hawaii is unique, and many of the restructuring proposals addressed on a national basis are not applicable here. However, there is still an opportunity to introduce competition into Hawaii's electric markets, and these two dockets address two of the most promising ways to achieve that goal.

The Hawaii Energy Services Companies agree with the Commission that competitive bidding for new generating capacity may provide a viable wholesale market competition alternative for the State of Hawaii. Order No. 20583, p. 1. Moreover, the Hawaii Energy Services Companies agree with the Commission that the fundamental issues to be addressed include (but are not limited to) the following: (1) an evaluation of the benefits and impacts of competitive bidding; (2) the development of a fair competitive bidding system; and (3) the development of any necessary revisions to the integrated resource planning process. *Id.* at p. 2.

Of these, the Hawaii Energy Services Companies are particularly interested in the second issue. Consistent with their views as expressed in their motions to intervene in Docket Nos. 03-0366 and 03-0371, the Hawaii Energy Services Companies believe that the following issues must be resolved if competitive bidding is to succeed: (1) whether and how regulated utility companies will be permitted to participate in such bidding; (2) how and under what rules the Hawaii Energy Services Companies and other entities will be required to submit their bids; (3) who will determine the winning bid and how the winning bid will be determined; (4) how and under what rules the Hawaii Energy Services Companies and other entities will connect to the grid if they are the successful bidders; and (5) how all potential bidders can be assured that they will have access to information concerning the electric system and grid so as to be able to make a meaningful bid. The Hawaii Energy Services Companies are ready and willing to compete with each other and other entities to provide new generating capacity, but strongly believe that all potential bidders must start from the same level playing field.

Order No. 20583 is another significant step in implementing a more competitive electric industry in the State of Hawaii. As with its investigation of distributed generation in Docket No. 03-0371, the Commission's decision to invite *all* interested parties to participate in the investigation -- including not only the regulated utility companies and the consumer advocate, but "all interested energy service providers and other business, environmental, cultural and community groups. . ." -- is a sound one. Order No. 20583, p. 5, footnote 3. Likewise, the Commission again observed that it is interested in "both the substance and the process in competitive bidding and the requisite roles and responsibilities of all players, including providers, consumers, regulators, and the society in general." *Id.*, at p. 4, footnote 2.

The Hawaii Energy Services Companies, as interested energy service providers and potential bidders, desire to participate fully in this investigation as intervenors. As the Commission has observed, the investigation will encompass “not only the physical/technological and legal (statutory and regulatory) structures and features of the State’s electric industry, but all aspects and arrangements that affect the manner in which electricity services are planned, produced, acquired, transported, furnished, and sold in the State of Hawaii.” Order No. 20583, p. 4, footnote 2. And, more particularly, Order No. 20583 states that the Commission is interested in both the substance and the process in competitive bidding, and the requisite roles and responsibilities of all players. *Id.*

As shown in this pleading, the Hawaii Energy Services Companies meet the requirements for intervention. Indeed, as unregulated providers of generation equipment and services throughout the Hawaiian islands, the Hawaii Energy Services Companies have a direct interest in these proceedings as potential bidders.

## **II. MOTION TO INTERVENE**

### **A. Description Of The Hawaii Energy Services Companies.**

The Hawaii Energy Services Companies are businesses engaged in the provision of heating, cooling, energy conservation, and related equipment and services, including electric generation equipment.

Johnson Controls, Inc. (“Johnson Controls”), is a publicly-traded corporation organized under the laws of Wisconsin and is headquartered in Milwaukee, Wisconsin. For over forty years, Johnson Controls has been a contractor licensed to do business in the State of Hawaii. Johnson Controls engages in two major lines of business, the Automotive Systems Group and the Controls Group. The

Controls Group sells control heating, ventilation, air conditioning, lighting, security, fire protection, and other electric generation systems, and provides mechanical and electrical maintenance services and integrated facility management services.

Pacific Machinery, Inc. (“Pacific Machinery”), is a corporation organized under the laws of Hawaii, and is headquartered in Waipahu, Hawaii. It is the largest industrial and construction equipment distributor in Hawaii and the Pacific Basin, and has operated in Hawaii for over 75 years. Pacific Machinery, Inc., sells, leases, and services a complete range of construction, energy, transportation, industrial, and generation equipment manufactured by, among others, Caterpillar, Solar Turbines, Toshiba, Fuel Cell Energy, Ingersoll-Rand, Grove, Navistar, Toro, and Kubota.

**B. Facts And Reasons In Support Of The Hawaii Energy Services Companies’ Intervention Request.**

In accordance with Rule 6-61-55 of the Commission’s Rules of Practice and Procedure, the facts and reasons supporting the Hawaii Energy Services Companies’ request for intervention are as follows.

**1. The Nature Of The Movant’s Statutory Or Other Right To Participate In The Hearing.**

As described above, each of the Hawaii Energy Services Companies is a corporation and, as such, is a “person” as defined by Rule 6-61-2 of the Commission’s Rules of Practice and Procedure. Therefore, each of the Hawaii Energy Services Companies has the statutory right to move to intervene and be made a party to the proceeding under Rule 6-61-55 of the Rules.

In addition, the Hawaii Energy Services Companies are, among other things, competitive third-party suppliers of generation equipment and services in the State of Hawaii. As potential bidders to supply new generating capacity, the Hawaii Energy Services Companies have a direct and immediate interest in the issues to be addressed in this investigation. As discussed above, the issues to be resolved in this proceeding will have a significant impact on competitive bidding for new generation capacity in the State of Hawaii, as well as on the business of each of the Hawaii Energy Services Companies. The Hawaii Energy Services Companies are among those entities that the Commission invited to take part in this docket.

For these reasons, the Hawaii Energy Services Companies seek intervention in this proceeding on a joint and several basis.

**2. The Nature And Extent Of The Movant's Property, Financial, And Other Interest In The Pending Matter.**

The Hawaii Energy Services Companies are unregulated entities that provide generation equipment and services. Thus, as potential bidders to supply new generating capacity, the Hawaii Energy Services Companies have a direct and immediate financial interest in the outcome of this proceeding.

As discussed, this investigation will establish the parameters for competitive bidding for new generating capacity in Hawaii. As such, it will have a direct impact not only on regulated utilities, but on potential bidders that are not regulated by the Commission. The policies adopted here will have a direct impact on each of the Hawaii Energy Services Companies' ability to engage in competitive bidding to provide new electricity generation within the service territories of the utilities that are regulated by the Commission. Thus, the Hawaii Energy Services Companies have an

immediate, direct, substantial, and unique financial and other interest in the policies, framework, rates, terms, conditions, rules, and regulations which are applied to competitive bidding.

Other ways in which the proposed CHP program could affect the property, financial, and other interests of the Hawaii Energy Services Companies are as follows.

First, whether regulated utilities or their subsidiaries or affiliates are permitted to bid to provide new generating capacity will directly impact the ability of the Hawaii Energy Services Companies to submit competitive bids. The Hawaii Energy Services Companies welcome competition among themselves and other entities, but strongly believe that all entities desiring to enter this market should be required to do so on equal footing. Stated differently, if utility companies are permitted to engage in these activities, they should be required to do so without subsidization of the programs by ratepayers, for example, by way of a totally independent affiliate.

Second, the regulated utilities have in their possession information and surveys concerning the need for new generating capacity, as well as information concerning where such capacity would provide the most benefits not only to the customer, but to the system. In order to submit meaningful and competitive bids, the Hawaii Energy Services Companies (and other potential bidders) require access to such information. Such information should be included in any request for proposals or bids.

Third, any new generating capacity must obviously be connected to the existing transmission and distribution systems of the regulated utilities. Thus, objective standards for interconnection are necessary; these standards should be generally available (either as a rule or within a request for proposals or bids), independently verifiable, and objective. Moreover, they should be applicable without exception to all potential bidders.

Fourth, as potential bidders, the development of the bidding system is obviously of critical importance to the Hawaii Energy Services Companies. A properly designed bidding system will encourage a large number of bidders. Conversely, an improperly designed bidding system will not encourage bids, and thus will not achieve the goals of increasing wholesale competition for electric power resources, selecting the best electric generation project, encouraging new technologies and creative proposals, and offering more choices to the electric consumer. *See* Order No. 20583, p. 2.

Thus, the outcome of this investigation will have a direct and substantial impact on the Hawaii Energy Services Companies. The Hawaii Energy Services Companies therefore seek intervention in this proceeding to address those issues and to protect their interests.

**3. The Effect Of The Pending Order On The Movant's Interest.**

As discussed in this pleading, Order No. 20583 will directly and substantially impact the interests of the Hawaii Energy Services Companies. The investigation will presumably result in a set of policies or rules that will establish how competitive bidding for new electric generation projects will be conducted in Hawaii. As the Commission has recognized, given the broad scope and impact of its intended investigation, it is in the best interests of all concerned to receive input from all of the affected players, including interested energy service providers such as the Hawaii Energy Services Companies. Hence, the pending order has a direct, substantial, and far-reaching impact on the interests of the Hawaii Energy Services Companies.

**4. The Other Means Available Whereby The Movant's Interest Will Be Protected.**

Other than direct participation as intervenors in this docket, the Hawaii Energy Services Companies have no other means to protect their interests. This investigation is designed to establish the parameters for competitive bidding for new generation projects in the State of Hawaii, potentially for years to come. As discussed, the interests of the Hawaii Energy Services Companies will be directly impacted by outcome of this investigation. Hence, there are no other means by which the Hawaii Energy Services Companies' interests may be protected, and intervention is appropriate.

**5. The Extent To Which The Movant's Interest Will Not Be Represented By Existing Parties.**

The existing parties are HECO, MECO, HELCO, the Kauai Island Utility Cooperative, Inc. ("KIUC"), and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"). As explained in this pleading, the Hawaii Energy Services Companies' interests will not be represented by the regulated utility companies. The Consumer Advocate, by statute, represents the interests of consumers of electric utility services, and, particularly, residential customers.

Thus, the Hawaii Energy Services Companies' interests are not represented by existing parties. A fair discussion of competitive bidding should include the participation of unregulated suppliers of generation equipment and services, such as the Hawaii Energy Services Companies.

**6. The Extent To Which The Movant's Participation Can Assist In The Development Of A Sound Record.**

The Hawaii Energy Services Companies' participation will assist in the development of a sound record by ensuring that all entities with a stake in the competitive bidding process are fully represented in this investigation. Given that the Hawaii Energy Services Companies have a direct stake in the outcome of this investigation, their participation will ensure that the viewpoint and experiences of generation equipment and service suppliers other than regulated utilities are placed in the record.

**7. The Extent To Which The Movant's Participation Will Broaden The Issues Or Delay The Proceeding.**

As potential bidders, the interests of the Hawaii Energy Services Companies are directly related to the scope of this docket. Thus, the Hawaii Energy Services Companies' participation will neither broaden the issues nor delay the proceedings. Indeed, as discussed above, their participation will engender a full and frank discussion of the issues from a viewpoint that is not represented by any of the current parties.

**8. The Extent To Which The Movant's Interest In The Proceeding Differs From That Of The General Public.**

The Hawaii Energy Services Companies' interest in this proceeding differs from that of the general public because, as described herein, the Hawaii Energy Services Companies are potential bidders.

9. **Whether The Movant's Position Is In Support Of Or In Opposition To The Relief Sought.**

As providers of generation equipment and services, the Hawaii Energy Services Companies strongly support the development of a vibrant competitive bidding process for new generating capacity in Hawaii. Similarly, the Hawaii Energy Services Companies do not object to bidding against each other and other entities on a level playing field.

The Hawaii Energy Services Companies strongly support the Commission's decision to launch this investigation. Establishing a proper framework for such bidding now will ensure that the market for new generation capacity will be a truly competitive market in the future.

C. **Persons Designated To Receive Service.**

Correspondence and communications should be addressed to:

Gordon Bull, Branch Manager  
Johnson Controls, Inc.  
Controls Group  
677 Ala Moana Blvd.  
Suite 820  
Honolulu, HI 96813  
Telephone: 808-543-5400  
Facsimile: 808-521-9906

Jim Reisch  
Vice President, General Manager -- Engine Division  
Pacific Machinery, Inc.  
94-025 Farrington Highway  
Waipahu, HI 96797  
Telephone: 808-676-0336  
Facsimile: 808-676-0264

Thomas C. Gorak  
Gorak & Bay, L.L.C.  
76-6326 Kaheiau Street  
Kailua-Kona, HI 96740  
Telephone: 808-331-2027  
Facsimile: 808-331-2027

**D. Hearing On Motion.**

No hearing is requested on the motion to intervene; however, the Hawaii Energy Services Companies would be pleased to respond to any questions that the Commission may have through further pleadings or a hearing.

**III. CONCLUSION**

WHEREFORE, the Hawaii Energy Services Companies, Johnson Controls, Inc., and Pacific Machinery, Inc., respectfully request that the Commission grant their motion to intervene in this docket, and that they each be granted party status in this docket with all rights appurtenant to that status.

Respectfully submitted,

**JOHNSON CONTROLS, INC.**

**PACIFIC MACHINERY, INC.**

By their attorney:



Thomas C. Gorak  
Hawaii Bar No. 0007673

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Kailua-Kona, HI 96740-3218  
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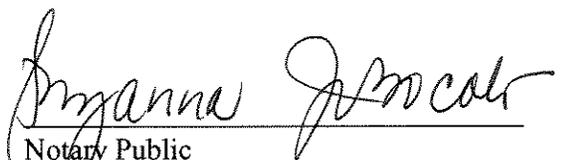
November 7, 2003

STATE OF HAWAII )  
 )  
CITY AND COUNTY OF HONOLULU ) SS.

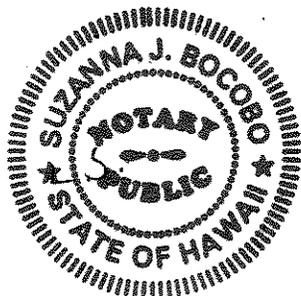
Jim Reisch, being first duly sworn, deposes and says that he is the duly appointed representative of Pacific Machinery, Inc., and that he has read the foregoing "Motion To Intervene And Certificate Of Service Of Johnson Controls, Inc., And Pacific Machinery, Inc.," in Docket No. 03-0372, before the Public Utilities Commission of the State of Hawaii, and that he knows the contents thereof; and that he is authorized by Pacific Machinery, Inc., to verify that the contents of the pleading are true.

  
\_\_\_\_\_  
Vice President

Subscribed and sworn to before me this  
6th day of November, 2003.

  
\_\_\_\_\_  
Notary Public  
State of Hawaii, 1st Judicial Circuit

My commission expires: 08-29-07



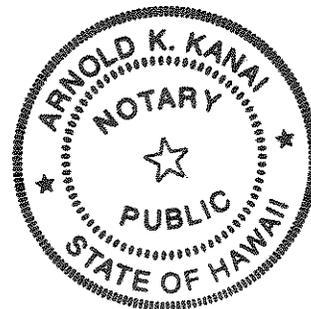
STATE OF HAWAII )  
 )  
COUNTY OF HAWAII ) SS.

Thomas C. Gorak, attorney for Johnson Controls, being first duly sworn, deposes and says that he is the duly appointed representative of Johnson Controls, Inc., and that he has read the foregoing "Motion To Intervene And Certificate Of Service Of Johnson Controls, Inc., And Pacific Machinery, Inc." in Docket No. 03-0372, before the Public Utilities Commission of the State of Hawaii, and knows the contents thereof; and that he is authorized by Johnson Controls, Inc., to verify that the contents of the pleading are true. He is filing this verification on behalf of Johnson Controls, Inc., due to the absence from the State of Hawaii of Gordon Bull, the person authorized by the officers of Johnson Controls, Inc., to verify the contents of the pleading.

Thomas C. Gorak

Subscribed and sworn to before me this  
7<sup>th</sup> day of November, 2003.

Arnold K. Kanai  
Notary Public      ARNOLD K. KANAI  
State of Hawaii



My commission expires: 08-31-07

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I have served a copy of the foregoing "Motion To Intervene And Certificate Of Service Of Johnson Controls, Inc., And Pacific Machinery, Inc.," by depositing same in the United States Mail, first class postage prepaid, and addressed to the following:

William A. Bonnet, Vice President  
Hawaiian Electric Company, Inc.  
P.O. Box 2750  
Honolulu, HI 96840-0001

Edward L. Reinhardt, President  
Maui Electric Company, Limited  
P.O. Box 398  
Kahului, HI 96733-6898

Warren H.W. Lee, President  
Hawaii Electric Light Company, Inc.  
P.O. Box 1027  
Hilo, HI 96721-1027

Alton Miyamoto, President & CEO  
Kauai Island Utility Co-Op  
2970 Haleko Road  
Suite 202  
Lihue, HI 96766

And by making personal service of two copies to the following:

Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs  
250 South King Street, 8th Floor  
Honolulu, HI 96813

Dated: Honolulu, Hawaii, November 7, 2003.



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