

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of )  
 )  
PUBLIC UTILITIES COMMISSION ) Docket No. 03-0372  
 )  
Instituting a Proceeding to Investigate )  
Competitive Bidding for New Generating )  
Capacity in Hawaii. )

FINAL STATEMENT OF POSITION OF  
KAUAI ISLAND UTILITY COOPERATIVE

AND

CERTIFICATE OF SERVICE

ISHIKAWA MORIHARA LAU & FONG LLP

KENT D. MORIHARA, ESQ.  
MICHAEL H. LAU, ESQ.  
Davies Pacific Center  
841 Bishop Street  
Suite 400  
Honolulu, Hawaii 96813  
TELEPHONE: (808) 528-4200

Attorneys for KAUAI ISLAND UTILITY  
COOPERATIVE

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FINAL STATEMENT OF POSITION  
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KAUAI ISLAND UTILITY COOPERATIVE

KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), by and through its attorneys, does hereby submit its Final Statement of Position in this docket pursuant to Prehearing Order No. 20923 filed on April 23, 2004, as amended by Order No. 21575 filed on January 28, 2005. KIUC is not submitting at this time any comments or responses to the Statements of Positions filed by the other parties on or about March 14, 2005.

**I. STATEMENT OF THE ISSUES**

As set forth in the proposed Stipulated Prehearing Order filed on April 2, 2004, as approved in said Prehearing Order No. 20923, the issues in this docket are as follows:

- 1 What are the benefits and impacts of competitive bidding?
- 2 Whether a competitive bidding system should be developed for acquiring or building new generation in Hawaii? If the answer is "yes", then:
  - a. How can a fair competitive bidding system be developed that ensures that competitive benefits result from the system and ratepayers are not placed at undue risk?

- b. What are the specific competitive bidding guidelines and requirements for prospective bidders, including the evaluation system to be used and the process for evaluation and selection?
  - c. How can a fair competitive bidding system encourage broad participation from a range of prospective bidders?
3. What revisions should be made to the integrated resource planning process?

## II. STATEMENT OF POSITION

The following sets forth KIUC's statement of position with respect to each of the issues set forth above. The positions set forth herein are made for the purpose of facilitating the Commission's review in this docket and shall not prevent KIUC from modifying or changing any of its positions set forth herein as this docket continues.

As a preliminary matter, in analyzing the above issues, KIUC undertook an analysis regarding the definition(s) of competitive bidding and what definition was the most applicable for KIUC and whether that definition should also be applicable to the other electric utilities serving Hawaii. Based on that analysis, KIUC believes that a modified version of the Electric Power Industry Glossary definition of competitive bidding best meets KIUC's cooperative ownership structure and its limited resource situation.<sup>1</sup>

Per this modified definition, competitive bidding:

*is a procedure that utilities use to select [builders/]suppliers of new electric capacity and energy. Under competitive bidding, an electric utility solicits bids from prospective [future] power generators to meet current or future power demands. Note: KIUC's additions to the definition in the Electric Power Industry Glossary are indicated by the text in brackets (e.g., "[xxx]").*

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<sup>1</sup> [http://www.energycentral.com/centers/knowledge/glossary/home.cfm?alphabet\\_letter=C](http://www.energycentral.com/centers/knowledge/glossary/home.cfm?alphabet_letter=C)

KIUC acknowledges that other definitions of competitive bidding may be more appropriate in situations where a utility has an affiliate that provides services or sells products in a competitive energy-related market or when a well-functioning reliable wholesale supply market with excess capacity exists and can be solicited for bids. However, for purposes of this docket, KIUC believes that any definition of competitive bidding should recognize Hawaii's unique geographic location and the electrical isolation of each island. As such, definitions that are applicable to utilities located on the mainland United States (i.e., utilities that are transmission grid interconnected, that are part of a power pool, and that have the ability, should customers be lost to retail access, to use their generation facilities to supply retail or wholesale load in another utility's service area) are not applicable to utilities in Hawaii.

KIUC, formerly Kaua'i Electric ("KE"),<sup>2</sup> has long been a proponent of procuring competitive bids with respect to generation additions. In 1995, KE was the first electric utility in Hawaii to formally complete a competitive bidding process for its then-planned generation addition (a 26.4 megawatt electric generation facility) that was completed in 2002. This process resulted in a purchase power agreement being entered into with Kaua'i Power Partners ("KPP"). KIUC believes that the competitive bidding process used for that project helped to ensure that the facility would provide both economic and reliability benefits to the utility and its customers.

In connection with the above, KIUC intends to continue to use a competitive bidding process for its next generation addition(s) using a process similar to that utilized

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<sup>2</sup> KIUC purchased the assets of KE from Citizens Communications Company on November 1, 2002. Said purchase was approved by Decision and Order No. 19658 filed on September 17, 2002 in Docket No. 02-0060.

for the above 26.4 megawatt facility and as further described below. In KIUC's opinion, the competitive bidding process ensures that future generation projects will be developed in a manner that best meets the objectives of KIUC's Integrated Resource Plan. KIUC also recognizes that it is a very small electric utility and does not have the staff or expertise, on its own, to develop and build large capital projects such as new electric generators. As such, it makes much more sense for KIUC to specify generation requirements in a Request For Proposals ("RFP") and then allow third parties to provide bids that KIUC will evaluate per established criteria mentioned in the RFP. Requirements stated in the RFP may include, but are not limited to, the generation facility's size, location, technology, operating characteristics, ownership options, reliability, and ability to provide firm or non-firm capacity.

In addition, as an electric cooperative borrowing money from the Rural Utilities Service ("RUS") in connection with its purchase of Kauai's electric utility in 2002 and its subsequent purchase of the abovementioned 26.4 megawatt KPP facility in 2003,<sup>3</sup> KIUC is required by RUS to use competitive procurement to the greatest extent practical. Except under certain circumstances, KIUC must use competitive procurement for obtaining all goods and services when a RUS loan or loan guarantee is involved. In cases where KIUC engages in a partnership with another entity(ies) in response to unique opportunities to provide integrated solutions to multiple issues, the competitive bidding system will not be used on the project level.

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<sup>3</sup> KIUC's purchase of the 26.4 megawatt facility was approved by Decision and Order No. 20691 filed on November 26, 2003 in Docket No. 03-0223.

Therefore, the procurement of competitive bids is a natural process to be implemented by KIUC as it fits well within the framework of an electric utility cooperative.

1. **Issue 1: What are the benefits and impacts of competitive bidding?**

At least as it pertains to KIUC, the benefits of the competitive bidding process start with the assurance that the members of KIUC will be given a means to best attain the generation objectives stated in the integrated resource plan ("IRP"). KIUC's strategic plans and initiatives (which by KIUC Board approval ensure that KIUC's members are represented) will be incorporated into the IRP objectives. Among the current strategic initiatives are lower rates and/or increased patronage capital refunds and credits, reduced reliance on fuel oil, increased focus on renewable energy, and favorable ownership options that take advantage of KIUC's low cost of capital.

Competitive bidding also allows for the selection from a pool of qualified candidates. The bidder that can best meet the objectives stated in the RFP will be selected. Competitive bidding also represents a business opportunity for the bidders.

When it is not otherwise necessary or appropriate to utilize a specific generation technology, the competitive bidding process also provides for an open and unbiased selection from a wide range of bidders. Once this type of RFP has been written, KIUC anticipates an open solicitation to which all qualified bidders may respond. This will allow for diversification of all types of technologies from all types and sizes of bidders.

A competitive bidding process will ensure that the generation projects fit within the objectives of a rural cooperative such as KIUC. Further, the diversity of different technologies offers KIUC the ability to no longer rely on single source

suppliers. For generation projects, fuel diversity for a small cooperative like KIUC is imperative in order to ensure long-term, reliable and alternative fuel supplies.

A negative impact of a competitive bidding process is that the process may be resource-intensive. For example, preparing the RFP, identifying bidders, issuing the RFP, conducting pre-proposal conferences, collecting and reviewing proposals, interviewing bidders, awarding the bid and negotiating the contract for services are all steps that will involve a substantial commitment of KIUC's financial, time, and staff resources.

**2. Issue 2: Whether a competitive bidding system should be developed for acquiring or building new generation in Hawaii?**

As it pertains to KIUC, a competitive bidding system should be developed for acquiring or building new generation in situations where it is appropriate to competitively bid for such new generation and KIUC directly initiates a process for acquiring new generation and has the sole authority for key project decisions.<sup>4</sup> These key decisions may include, but are not limited to, generation technology, selection of developer, source of funding, ownership options, siting, and size (capacity) limits.

On the other hand, the use of a competitive bidding system should not be required of KIUC when KIUC: (a) is engaged in a partnership with another entity, (b) does not have the sole authority for making key decisions with this partnership, and (c) when the partnership was created in response to unique opportunities to provide integrated solutions to multiple issues. See KIUC's response to PUC-IR-40. One

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<sup>4</sup> As noted in KIUC's response to PUC-IR-41(a), KIUC believes that there should be no dollar threshold under which competitive bidding should not be applicable. In addition, as noted in its response to PUC-IR-42, KIUC believes that near-term needs should only be exempted from the competitive bidding process when there is an emergency need for capacity and/or energy that must be addressed on an expedited basis. Otherwise, KIUC believes that near-term needs should not be exempted from the competitive bidding process.

example of an integrated solution is a municipal solid waste generating plant whereby the need for more capacity is coupled with landfill issues.

**a. How can a fair competitive bidding system be developed that ensures that competitive benefits result from the system and ratepayers are not placed at undue risk?**

From a Hawaii electric utility standpoint, unlike on the continental United States, where the reliability risk of a failed independent power producer is greatly minimized for a utility that is interconnected to a transmission grid, electric utilities in Hawaii do not have this reliability fallback due to the isolation of its islands as mentioned above. For this reason, KIUC believes it is imperative that Hawaii electric utilities be given a wide range of flexibility to develop a competitive bidding RFP, to evaluate the bidders' ability to meet the RFP requirements, and ultimately to select the winning bidder. In addition, as the first and only member-owned electric cooperative in the State of Hawaii, KIUC believes it is especially appropriate for KIUC to also be allowed to design its own competitive bidding process to allow KIUC to incorporate "best practices"<sup>5</sup> that ensure overall benefits to its member/customers and that comply with KIUC's lender requirements.

Having said the above, however, when initiating a process to acquire new generation, KIUC anticipates that it will follow the proven process that KE utilized in 1995 that resulted in its 26.4 megawatt electric generation facility. Under that

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<sup>5</sup> As noted in KIUC's response to PUC-IR-26(b), components of "best practice" may include, but are not limited to, financial strength, cost, ability to meet project timelines, history of performance, resumes for key management persons, and references. In addition, KIUC believes that "best practice" must not be set on any fixed formula or other rigid parameters, but must remain flexible enough to adapt as technologies and practices advance and/or evolve over time. Further, as provided in KIUC's response to PUC-IR-26(c), KIUC believes that a specific set of Statewide guidelines for "best practices" could possibly inadequately address the inherent aspects associated with a member-owned cooperative such as KIUC. However, if the Commission were to establish such Statewide guidelines, KIUC believes that these

process, KE set forth the specifications for the next generation project as well as the evaluation process to be used in its unbiased selection of bidders. KIUC believes that these steps helped to ensure that competitive benefits resulted from the process and the electric utility and its ratepayers at that time were not placed at undue risk.

KIUC also believes that a similar level of Commission involvement should be utilized as in 1995, in which the Commission reviewed and approved the power purchase agreement between KE and KPP as required by statute but had little or no involvement during the actual competitive bidding process.<sup>6</sup> The success of the 1995 competitive bidding process illustrates that Commission involvement or oversight of the process itself is not necessary to ensure that competitive benefits result from the process and that ratepayers were not placed at undue risk. This is especially true for KIUC, in which there are several factors inherent to KIUC's cooperative structure that provide certain added protections that essentially create a fail-safe measure to ensure that bids are competitive and that the competitive bidding process will allow KIUC to continue supplying its members' electrical energy needs with generation that meets KIUC and its members' objectives. For example, as noted above, one of KIUC's loan covenants with its lender RUS specifically requires KIUC to use competitive

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guidelines should be general in nature or at least be flexible enough to account for the differences between an electric cooperative such as KIUC and an investor-owned utility.

<sup>6</sup> In connection with the above, KIUC believes that (1) it should be KIUC's independent responsibility to develop the respective RFP process, the RFP, and then to negotiate in good faith with the bidder(s), (2) KIUC should have the option as to whether or not to use one or multiple RFPs to solicit bids as well as what resources should be covered under the RFP, (3) KIUC should have the discretion whether to hire an independent consultant to provide input and recommendations to KIUC, (4) KIUC should have the discretion whether to hold a workshop with potential bidders and other interested parties prior to the release of the RFP, (5) KIUC should determine the required qualifications of the bidders, (6) the Commission should not have an active role in the above process, (7) the Commission's role during this process should be to review, approve and to provide dispute resolution of power purchase agreements. See KIUC's responses to PUC-IR-3, 26, 44, 45, 56, 57 and 59.

procurement to the greatest extent practical. In addition, due to its cooperative structure, KIUC has access to low-cost funding through its lenders that can assist in keeping bids as low as possible or, in the alternative, to allow KIUC to buy its own generation addition under a time and material contract at a lower price than any of the bidders. Moreover, as officials elected by the member/customers, KIUC's Board of Directors has a fiduciary responsibility to ensure that a democratic process to govern decisions and policymaking occurs. As such, there are sufficient protections in place for KIUC that obviate the need for Commission involvement or oversight during the competitive bidding process itself.

In addition, KIUC will structure its RFPs to clearly state the utility's new power generation objectives. The objectives and scope of work will be specifically stated to avoid any ambiguity that may result in subjective proposals. The RFP will also state the formatting requirements to submit the proposal, a detailed schedule for various RFP activities, including "intent to bid" response, pre-bid conference, proposal due date, evaluation period, and expected contract award date, as well as a description of the proposal evaluation and selection process. Further, the RFP will also state other requirements that bidders must meet in their proposal submissions. These requirements may include, but are not limited to, financial strength, cost, ability to meet project timelines, history of performance, resumes for key management persons, and references. A successful bidder will be chosen following a rigorous process of review and research of all bidders' credentials.

**b. What are the specific competitive bidding guidelines and requirements for prospective bidders, including the evaluation system to be used and the process for evaluation and selection?**

In addition to the above, KIUC will include an RFP process schedule in the RFP. Bidders will be given a specified time period to respond to the RFP. During this period, KIUC may elect to hold a pre-bid conference whereby all bidders would be encouraged to ask questions and receive responses and additional information in the presence of the other bidders. In their submission of proposals, bidders will be required to address all of the requirements set forth in the RFP. Failure to do so may disqualify the bidder from being considered.

KIUC will receive and date each bid. The evaluation and selection process will include the formation of an internal review team that will perform, among other things, the following general functions: (1) as a team, develop criteria for the review, evaluation and determination of qualified bid proposals; (2) individually, review the proposals and determine if qualified, (3) as a team, conduct interviews of the various qualified bidding candidates; (4) as individuals, complete the evaluation process based on the established criteria to review and evaluate the qualified bid proposals; (5) as a team, establish and apply weighting factors to results of the evaluation; (6) as a team, discuss individual interpretations of the qualified proposals; and (7) as a team, award the project to the qualified bidder that is determined to best meet the project requirements and the needs of KIUC and its members.

**c. How can a fair competitive bidding system encourage broad participation from a range of prospective bidders?**

In the previous KE competitive bidding process for its 26.4 megawatt facility discussed above, KE received over thirty bids for various different types of projects. The key to that broad participation was in the manner KE solicited its

bids – asking for capacity and energy from any proven technology. After the initial screening process by KE, a final list of six bidders was then evaluated in detail to arrive at the 26.4 megawatt facility to be constructed by KPP. KIUC believes that the above process sufficiently encouraged broad participation from a range of prospective bidders, and, as mentioned above, KIUC intends to utilize a similar competitive bidding process in the future to accomplish the same objective.

**3. Issue 3: What revisions should be made to the integrated resource planning process?**

KIUC believes that the competitive bidding process and the IRP process are integral parts to each other. For example, a completed IRP and its resulting avoided cost can provide a basis to which generation bidders can determine their proposal pricing scheme. Conversely, an RFP issued prior to the completion of an IRP may provide real-time project data that can be incorporated into the IRP.

In KIUC's situation, by letter dated December 23, 2004, KIUC filed a proposed revised IRP framework, entitled "Kaua'i Island Utility Cooperative Integrated Resource Planning Principles", to take into account its unique cooperative ownership structure. KIUC believes that this proposed framework provides sufficient guidelines to allow for a competitive bidding process for KIUC as a cooperative electric utility.

In response to KIUC's December 23, 2004 filing, by Order No. 21707 filed on March 24, 2005 in Docket No. 05-0075, the Commission opened a proceeding to review and investigate KIUC's proposed revisions to its framework. KIUC believes that the outcome of that docket (i.e., Docket No. 05-0075) will identify existing or establish new guidelines to promote fair competitive bidding for new generation capacity on Kauai. KIUC also believes that any guidelines identified per the subject docket that are

applicable to a cooperative electric utility should be consistent with the results of that  
Docket No. 05-0075.

DATED: Honolulu, Hawaii, August 11, 2005.



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KENT D. MORIHARA  
MICHAEL H. LAU  
Ishikawa Morihara Lau & Fong LLP

Attorneys for KAUAI ISLAND UTILITY  
COOPERATIVE

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were duly served on the following parties, by having said copies delivered as set forth below:

DIVISION OF CONSUMER ADVOCACY  
335 Merchant Street  
Room 326  
Honolulu, HI 96813  
Email: [cheryl.s.kikuta@dcca.hawaii.gov](mailto:cheryl.s.kikuta@dcca.hawaii.gov)  
[jon.s.itomura@dcca.hawaii.gov](mailto:jon.s.itomura@dcca.hawaii.gov)  
[ann.y.tonokawa@dcca.hawaii.gov](mailto:ann.y.tonokawa@dcca.hawaii.gov)

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THOMAS W. WILLIAMS, JR. ESQ.  
PETER Y. KIKUTA, ESQ.  
Goodsill, Anderson, Quinn & Stifel  
Alii Place, Suite 1800  
1099 Alakea Street  
Honolulu, HI 96813  
Email: [twilliams@goodsill.com](mailto:twilliams@goodsill.com)  
[pkikuta@goodsill.com](mailto:pkikuta@goodsill.com)  
*Attorneys for Hawaiian Electric Company, Inc., Maui Electric Company, Ltd.,  
and Hawaii Electric Light Company, Inc.*

1 copy  
U.S. Mail

MR. WILLIAM A. BONNET  
Vice President  
Hawaiian Electric Company, Inc.  
Hawaii Electric Light Company, Inc.  
Maui Electric Company, Limited  
P. O. Box 2750  
Honolulu, HI 96840-0001  
Email: [bill.bonnet@heco.com](mailto:bill.bonnet@heco.com)

1 copy  
U.S. Mail

DARCY ENDO  
G. HIROSE  
Hawaiian Electric Company, Inc.  
P. O. Box 2750  
Honolulu, HI 96840-0001  
Email: [darcy.endo@heco.com](mailto:darcy.endo@heco.com)  
[g.hirose@heco.com](mailto:g.hirose@heco.com)

1 copy  
U.S. Mail

WARREN S. BOLLMEIER II, PRESIDENT  
Hawaii Renewable Energy Alliance  
46-040 Konane Place, #3816  
Kaneohe, HI 96744  
Email: [wsb@lava.net](mailto:wsb@lava.net)

1 copy  
U.S. Mail

SANDRA –ANN Y. H. WONG, ESQ.  
1050 Bishop Street, #514  
Honolulu, Hawaii 96813  
Email: [sawonglaw@hawaii.rr.com](mailto:sawonglaw@hawaii.rr.com)  
*Attorney for Hess Microgen*

1 copy  
U.S. Mail

CHRISTOPHER S. COLMAN, Deputy General Counsel  
Amerada Hess Corporation  
One Hess Plaza  
Woodbridge, N.J. 07095  
Email: [ccolman@hess.com](mailto:ccolman@hess.com)

1 copy  
U.S. Mail

MICHAEL DE'MARSI  
Hess Microgen  
4101 Halburton Road  
Raleigh, NC 27614  
Email: [demarsi@earthlink.net](mailto:demarsi@earthlink.net)

1 copy  
U.S. Mail

LANI D. H. NAKAZAWA, ESQ.  
Office of the County Attorney  
County of Kauai  
4444 Rice Street, Suite 220  
Lihue, HI 96766  
Email: [lnakazawa@kauaigov.com](mailto:lnakazawa@kauaigov.com)

2 copies  
U.S. Mail

GLENN SATO, ENERGY COORDINATOR  
c/o Office of the County Attorney  
County of Kauai  
4444 Rice Street, Suite 220  
Lihue, HI 96766  
Email: [glenn@kauaioed.org](mailto:glenn@kauaioed.org)

1 copy  
U.S. Mail

MR. H.A. DUTCH ACHENBACH  
MR. JOSEPH McCAWLEY  
MR. MICHAEL YAMANE  
Kauai Island Utility Cooperative  
4463 Pahe'e Street  
Lihue, HI 96766  
Email: [dachenba@kiuc.coop](mailto:dachenba@kiuc.coop)  
[jmccawle@kiuc.coop](mailto:jmccawle@kiuc.coop)  
[myamane@kiuc.coop](mailto:myamane@kiuc.coop)

3 copies  
U.S. Mail

DATED: Honolulu, Hawaii, August 11, 2005.



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KENT D. MORIHARA  
MICHAEL H. LAU

Attorneys for KAUAI ISLAND UTILITY  
COOPERATIVE