

OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC.,)
HAWAII ELECTRIC LIGHT COMPANY, INC.)
MAUI ELECTRIC COMPANY, LIMITED and)
)
KAUAI ISLAND UTILITY COOPERATIVE)
)
For Approval to Establish a Rule)
to Implement a Community-Based)
Renewable Energy Program and Tariff))
and Other Related Matters.)
)

DOCKET NO. 2015-0389

ORDER NO. 37070

COMMENCING PHASE 2 OF THE
COMMUNITY-BASED RENEWABLE ENERGY PROGRAM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
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COMMENCING PHASE 2 OF THE
COMMUNITY-BASED RENEWABLE ENERGY PROGRAM

By this Order, the Public Utilities Commission ("Commission"): (1) announces changes to Phase 2 of the Community-Based Renewable Energy ("CBRE") Framework; (2) directs HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED ("MECO") (individually, Company, collectively, "HECO Companies" or "Companies") to develop a request for proposals ("RFP") and tariffs consistent with these changes; (3) sets the procedural schedule for the next phase of this docket; (4) grants the

Consumer Advocate's Motion for Clarification of Decision and Order No. 35560; and (5) grants EFCA's and LOL's motions to withdraw.¹

I.

RELEVANT PROCEDURAL HISTORY

On December 22, 2017, the Commission issued Decision and Order No. 35137 in which it: (1) issued and adopted a CBRE Framework, applicable to the HECO Companies; and (2) directed the HECO Companies to submit tariffs and related program filings consistent with the guidance provided in the Framework Order.²

¹The Parties and Participants to this proceeding are: (1) the HECO Companies; (2) KAUAI ISLAND UTILITY COOPERATIVE; (3) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 16-601-62(a); the Intervenor, pursuant to Order No. 33751, filed June 8, 2016, at 100 ("Order No. 33751"); (4) the DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, and TOURISM ("DBEDT"); and the Participants, pursuant to Order No. 33751, at 100: (5) RENEWABLE ENERGY ACTION COALITION OF HAWAII, INC. ("REACH"); (6) SUNPOWER CORPORATION ("SunPower"); (7) HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"); (8) ULUPONO INITIATIVE, LLC ("Ulupono"); (9) BLUE PLANET FOUNDATION ("Blue Planet"); (10) HAWAII PV COALITION ("HPVC"); and (11) THE ALLIANCE FOR SOLAR CHOICE ("TASC"). By this Order, the Commission grants the motions to withdraw of ENERGY FREEDOM COALITION OF AMERICA, LLC ("EFCA") and LIFE OF THE LAND ("LOL").

²In re Hawaiian Elec. Co., Inc., Docket No. 2015-0389, Decision and Order No. 35137, filed December 22, 2017 ("Framework Order"). The CBRE Framework is attached to the Framework Order as Attachment A. Unless otherwise noted herein, capitalized terms shall have the same meanings as defined in the CBRE Framework and/or the associated Tariff Rule No. 26.

After a variety of filings to clarify the CBRE Framework and its implementation, on June 29, 2018, the Commission issued Decision and Order No. 35560, which approved the HECO Companies' CBRE program filings.³

Pursuant to the Tariff Order, on July 10, 2018, the HECO Companies filed CBRE Phase 1 program tariffs (each Company's respective Tariff Rule No. 26).

Also on July 10, 2018, the Consumer Advocate filed a Motion for Clarification of the Tariff Order.⁴

On July 17, 2018, the Companies filed a statement of no opposition and response to the Consumer Advocate's Motion for Clarification.⁵

³In re Hawaiian Elec. Co., Inc., Docket No. 2015-0389, Decision and Order No. 35560, filed June 29, 2018 ("Tariff Order"). The Tariff Order contains a detailed history of the filings made in-between the issuance of the Framework Order and the Tariff Order.

⁴"Division of Consumer Advocacy's Motion for Clarification of Decision and Order No. 35560; and Certificate of Service," ("Motion for Clarification"), filed July 10, 2018. On July 11, 2018, the Consumer Advocate filed Errata to its Motion for Clarification, providing a replacement Attachment 1 to the Motion for Clarification. All references to the Motion for Clarification herein include the replacement Attachment 1.

⁵"Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited's Statement of No Opposition and Response to the Division of Consumer Advocacy's Motion for Clarification of Decision and Order No. 35560; and Certificate of Service" ("Companies' Response"), filed July 17, 2018.

Approximately one year after the CBRE Program's inception, on July 25, 2019, the Commission convened a technical conference to discuss Phase 1's progress and solicit feedback on Phase 2's implementation. At the technical conference the Commission also solicited written feedback on Phase 2's implementation.

On August 19, 2019, the Companies⁶ and the Consumer Advocate⁷ filed their comments on Phase 2.

Also on August 19, 2019, Blue Planet, HSEA, REACH, Ulupono, HPVC, LOL, and TASC ("Joint Parties") filed joint comments on Phase 2.⁸

On September 25, 2019, EFCA filed a motion to withdraw from this docket.⁹

⁶"Hawaiian Electric Companies' Comments on Community-Based Renewable Energy Phase 2; and Certificate of Service," ("Companies' Comments"), filed August 19, 2019.

⁷"Docket No. 2015-0389 In re Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., Maui Electric Company, Limited, and Kauai Island Utility Cooperative, for Approval to Establish a Rule to Implement Community-Based Renewable Energy Program and Tariff and Other Related Matters - Comments Regarding Changes to Phase 2 Framework," ("Consumer Advocate Comments"), filed August 19, 2019.

⁸"Joint Comments on Implementing Phase 2 of Community-Based Renewable Energy Program" ("Joint Comments"), filed on August 19, 2019.

⁹"Energy Freedom Coalition of America, LLC's Motion to Withdraw; Certificate of Service," filed on September 25, 2019 ("EFCA's Motion to Withdraw").

On February 18, 2020, LOL filed a motion to withdraw from this docket.¹⁰

II.

PARTIES' COMMENTS

As noted above, the Commission requested comments on Phase 2 no later than August 19, 2019. The Companies, the Joint Parties, and the Consumer Advocate all filed comments. The sections that follow summarize these comments.

A.

HECO Companies

The HECO Companies recommend that "the Phase 2 capacity target be significantly increased to a total of 235 MW" with competitive bidding in place to allow the credit rate structure to be set by the market price.¹¹ The HECO Companies recommend the 235 MW target "based on shortfalls in installed rooftop photovoltaic ("PV") from the five-year forecast for renewable resources outlined in the Power Supply Improvement Plan

¹⁰"Life of the Land's Motion to Withdraw & Certificate of Service," filed on February 18, 2020 ("LOL's Motion to Withdraw").

¹¹Companies' Comments at 6.

("PSIP")."¹² The HECO Companies state "[i]ncreasing the total capacity will benefit the program by enabling larger caps on individual projects, which in turn should attract a broader pool of" Subscriber Organizations ("SOs").¹³ The HECO Companies argue that "larger projects will create improved economies of scale, which could enable lower credit rates, reducing non-participant subsidies, without impacting SO or Subscriber benefits."¹⁴

The HECO Companies further recommend "the total program capacity be segmented into two unique capacity targets for small and large facilities," as follows.¹⁵

	<u>Large Capacity</u> <u>(MW)</u>	<u>Small Capacity</u> <u>MW</u>	<u>Total Phase 2</u> <u>Capacity</u>
Oahu	134	33	167
Hawaii Island	24	6	30
Maui	26	6	32
Molokai	2	1	3
Lanai	2	1	3
Total	188	47	235

¹²Companies' Comments at 6 (citing Docket No. 2014-0183).

¹³Companies' Comments at 6.

¹⁴Companies' Comments at 6-7.

¹⁵Companies' Comments at 7.

The HECO Companies propose “that any unallocated Phase 1 capacity at the time the Phase 2 tariff is approved be added to the total capacity for smaller facilities.”¹⁶

The HECO Companies recommend that for large projects, the Phase 2 credit rate structure transition to a renewable dispatchable generation (“RDG”) power purchase agreement (“PPA”) model with adjusted credit rate caps based on the RDG PPA Stage 1 RFP pricing for solar plus storage (i.e., 9.69 cents/kilowatt hour (“kWh”) for Oahu, 8.5 cents/kWh for Hawaii Island, and 8 cents/kWh for Maui) with a \$0.02 premium to account for CBRE-specific costs.¹⁷ The HECO Companies state the RDG PPA model would “compensate Subscribers and SOs with a fixed lump sum payment based on capacity and availability.”¹⁸ Recognizing that “CBRE Facilities’ costs per kWh may be higher than those of the Stage 1 RFPs given CBRE SOs are subject to additional costs related to customer management and acquisition[,]” the Companies recommend that Phase 2 pricing caps be set at the Stage 1 RFP prices, with a \$0.02 adder “to account for CBRE-specific costs.”¹⁹ The Companies argue that this fixed payment structure would provide “more stable revenue streams and

¹⁶Companies’ Comments at 17.

¹⁷See Companies’ Comments at 5-6, 12.

¹⁸Companies’ Comments at 4.

¹⁹Companies’ Comments at 5-6.

credit values, benefitting both SOs and Subscribers.”²⁰ The HECO Companies recommend that the Commission employ the “CCRP mechanism proposed in the CBRE Framework” to award capacity for smaller projects.²¹

As to low and moderate income (“LMI”) customers, the Companies propose “that Phase 2 incorporate mechanisms to incentivize or require third party SOs to subscribe residential and/or LMI customers.”²² The Companies offer potential incentive mechanisms including: (1) required carve outs for residential or LMI customer segments for each SO; (2) unique credit rates for residential and/or LMI customer segments; (3) a total program capacity allocation target set during the RFP process, allowing bidders to set their own residential or LMI commitments, with a bid’s commitment included as an RFP evaluation criterion; or (4) a combination of the proposed potential mechanisms.²³

The HECO Companies recommend that an LMI customer be “defined according to the [Department of Housing and Urban Development (“HUD”)] definition for a Low- and Moderate-Income Person[,],” which means “a member of a family having an income equal

²⁰Companies’ Comments at 10-11.

²¹Companies’ Comments at 22.

²²Companies’ Comments at 8.

²³See Companies’ Comments at 8.

to or less than the Section 8 low-income limit established by HUD.”²⁴ This means a “household whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.”²⁵ The HECO Companies state it is important to have a “metric that is widely available to the public” so that SOs “will have the necessary documentation to properly classify LMI subscribers” and “an LMI metric that will be available and reported on for the program’s lifespan.”²⁶

B.

Consumer Advocate

The Consumer Advocate supports transferring the remaining Phase 1 capacity to Phase 2, “to the extent that Phase 2 will take the lessons learned from Phase 1 to create a better and improved program,” and does not support continuing to offer excess Phase 1 capacity under the original Phase 1 rates and terms.²⁷

The Consumer Advocate argues that “specific guidance about the requirements for documenting site control would be useful

²⁴Companies’ Comments at 27.

²⁵Companies’ Comments at 27.

²⁶Companies’ Comments at 28.

²⁷Consumer Advocate Comments at 6.

for potential applicants.”²⁸ The Consumer Advocate states that it should be “clear to applicants that site control documentation is due as part of the application rather than later in the review process,” and any consequences for incomplete applications should also be clear.²⁹ The Consumer Advocate further notes that land ownership on Lanai is “likely to impact CBRE project participation” and that additional research is required to “determine the extent to which the current CBRE Framework is expected to be successful on Lanai.”³⁰

The Consumer Advocate agrees with the IO that the Companies “should continue outreach efforts to the extent that there is remaining Phase 1 capacity available.”³¹ The Consumer Advocate also notes increased outreach, including “mainland firms, especially those specializing in CBRE projects, as well as local developers, and to local organizations representing groups of underserved consumers (e.g., non-profit organizations, renter organizations, condominium associations, homestead associations, etc.) would help to promote a more robust

²⁸Consumer Advocate Comments at 7.

²⁹Consumer Advocate Comments at 7.

³⁰Consumer Advocate Comments at 7.

³¹Consumer Advocate Comments at 5.

response.”³² The Consumer Advocate argues that “a greater emphasis should be placed on reaching out to and serving LMI customers.”³³ The Consumer Advocate seeks to understand “why local developers chose not to participate” in Phase 1.³⁴ The Consumer Advocate does “not believe that utilities should bear advertising costs, which may ultimately be passed on to all customers,” and that SOs should bear the cost of acquisition of customers that are not underserved.³⁵ The Consumer Advocate recommends that the HECO Companies “conduct outreach at certain intervals during [] Phase 2” instead of just at the beginning.³⁶

The Consumer Advocate states that it “does not, in principle, oppose increasing the capacity allocated for Phase 2[.]”³⁷ The Consumer Advocate advises that “any proposal to expand CBRE Phase 2 program capacity should make clear what is being assumed regarding the credits or payments that will be made, as well as what resource(s) the increase in program capacity is

³²Consumer Advocate Comments at 8.

³³Consumer Advocate Comments at 9.

³⁴Consumer Advocate Comments at 8.

³⁵Consumer Advocate Comments at 6.

³⁶Consumer Advocate Comments at 9.

³⁷Consumer Advocate Comments at 10.

expected to displace and whether there are any associated increases in system costs.”³⁸

The Consumer Advocate also “does not oppose increasing the project size to the extent that it allows developers to potentially take advantage of economies of scale and submit more competitive bids.”³⁹ The Consumer Advocate “supports the migration toward time-varying rates as part of Phase 2 but urges the Commission to consider updating the Standard CBRE Facility Credit Rate Caps and Peaker Credit Rate Cap to reflect the lower costs and advances in technology evidenced in the [Companies’] recent procurement efforts.”⁴⁰

The Consumer Advocate does not oppose the “use of the HUD metric to determine LMI eligibility[,]” but still seeks to understand “how eligibility will be verified” to prevent potential attempts at gaming.⁴¹ The Consumer Advocate argues that it will be important to establish a system that can “easily verify the eligibility of applicants who represent that they are LMI customers.”⁴²

³⁸Consumer Advocate Comments at 10.

³⁹Consumer Advocate Comments at 11.

⁴⁰Consumer Advocate Comments at 14.

⁴¹Consumer Advocate Comments at 15.

⁴²Consumer Advocate Comments at 15.

The Consumer Advocate believes the “use of efficient price signals is appropriate to convey information regarding system needs and that the selection of CBRE projects should be technology-agnostic.”⁴³ The Consumer Advocate states that “[t]o predetermine program capacity allocations based on a type of technology would be tantamount to ‘picking winners and losers’ and should be avoided.”⁴⁴ Instead, the Consumer Advocate argues that CBRE projects should be selected based on the net benefits they provide to the grid and if they are consistent with State policy objectives.⁴⁵ The Consumer Advocate recommends that the Commission consider whether an “assessment of the net lifetime greenhouse gas (‘GHG’) emission savings associated with candidate CBRE projects” should be incorporated in the Phase 2 competitive process.⁴⁶

Finally, the Consumer Advocate notes that it seeks guidance regarding the CBRE Subscribers Bill of Rights, which is the subject of its Motion for Clarification.⁴⁷

⁴³Consumer Advocate Comments at 15.

⁴⁴Consumer Advocate Comments at 16.

⁴⁵See Consumer Advocate Comments at 16.

⁴⁶Consumer Advocate Comments at 16.

⁴⁷Consumer Advocate Comments at 17.

C.

Joint Comments

The Joint Parties support the HECO Companies' suggestion of "substantially increasing the CBRE program capacity to 235 MW[.]"⁴⁸ The Joint Parties further recommend "that the total 235 MW be available from the outset, and that if the market response exceeds 235 MW within five years, then the Commission [should] further expand program capacity."⁴⁹ The Joint Parties emphasize that the 235 MW allocation to CBRE "should not justify future restrictions on customer DER; that is, they do not support a proposition of one DER customer option 'cannibalizing' another."⁵⁰ The Joint Parties argue that "the CBRE program must offer ample, sustained market opportunities" and propose that, instead of expanding Phase 2 capacity to 235 MW, the Commission could "simply remove the cap on the CBRE program[.]"⁵¹

The Joint Parties "support an increase in project size limits."⁵² The Joint Parties argue that "larger project sizes will open up broader market opportunities and also enable projects to

⁴⁸Joint Comments at 9.

⁴⁹Joint Comments at 9-10.

⁵⁰Joint Comments at 10.

⁵¹Joint Comments at 10.

⁵²Joint Comments at 11.

capture greater economies of scale.”⁵³ The Joint Parties “suggest increasing the size limit to 10 MW on Oahu and 5 MW on neighbor islands as a minimum starting proposition” and that there should be a “carve out of total program capacity for smaller projects (e.g. <250 [kilowatts (“kW”)]).”⁵⁴ The Joint Parties state they “oppose lumping smaller, community-scale projects together with utility-scale projects in a consolidated competitive process, which disadvantages smaller-scale projects and works against the program’s diversity goals.”⁵⁵

The Joint Parties “do not support fundamentally reshuffling the Commission’s ordered CBRE compensation framework in Decision & Order No. 35137, and they particularly oppose proposals to reduce the compensation rates, which will further burden what already appears to be a challenging value proposition.”⁵⁶ The Joint Parties also state that “[t]he credit rate issue was already extensively litigated in this proceeding, and major midstream course shifts, particularly in the negative direction, will impose further delays, undermine continuity and certainty in the program, and send the wrong signals to the

⁵³Joint Comments at 11.

⁵⁴See Joint Comments at 11.

⁵⁵Joint Comments at 11.

⁵⁶Joint Comments at 4 (emphasis in original).

marketplace.”⁵⁷ The Joint Parties recommend maintaining Phase 2 credit rate structure with supplemental “adders” including: (1) an adder for residential subscribers; (2) an adder for low-income subscribers; and (3) an adder for small (<250 kW) projects.⁵⁸ The Joint Parties note Minnesota’s ability to obtain ninety three percent (93%) residential subscribers to their CBRE program after incorporating a residential adder.⁵⁹ The Joint Parties also support “continuing the Phase 1 compensable curtailment policy for Phase 2 CBRE projects.”⁶⁰

The Joint Parties emphasize that enabling solar-plus-storage projects will promote “mutual benefits by: improving the quality and reliability of power output; spreading the kWh output over time to avoid circuit capacity constraints; improving the project value proposition by allowing increased aggregate kWh output over a longer period; avoiding curtailment risks by storing instead of wasting excess energy; and deploying state-of-the art technology capable of providing more advanced grid services.”⁶¹

⁵⁷Joint Comments at 4.

⁵⁸See Joint Comments at 4-8.

⁵⁹See Joint Comments at 5.

⁶⁰Joint Comments at 8.

⁶¹Joint Comments at 12.

The Joint Parties “strongly recommend that the outreach and marketing effort for the CBRE Phase 2 be both greatly expanded,” and focused to reach and attract “customers who are not able to participate directly in renewable energy initiatives (e.g., apartment renters, condominium owners and occupants), underrepresented populations such as LMI customers, and community based entities such as nonprofit organizations, schools, and churches.”⁶² The Joint Parties “strongly support efforts to reach underserved communities” and also “support the working definition [for LMI customers] provided in the CBRE Framework: ‘Currently qualifies and/or participates in the Low-Income Home Energy Assistance Program (‘LIHEAP’).’”⁶³

III.

DISCUSSION

A.

Act 100

On June 8, 2015, Act 100 took effect.⁶⁴ In enacting Act 100, the Legislature found “that all Hawaii residents should

⁶²Joint Comments at 17.

⁶³Joint Comments at 16 (citing Framework at 24).

⁶⁴2015 Haw. Sess. Laws Act 100, §§ 1-2 (“Act 100”) at 249-251. Act 100 was later codified as HRS § 269-27.4.

be able to participate in and enjoy the economic, environmental, and societal benefits of renewable energy.”⁶⁵ The Legislature established the CBRE program with the goal of “dramatically expanding the market for eligible renewable energy resources to include residential and business renters, occupants of residential and commercial buildings with shaded or improperly oriented roofs, and other groups who are unable to access the benefits of onsite clean energy generation.”⁶⁶ The Legislature further found it “in the public interest to promote broader participation in self-generation by Hawaii residents and businesses through the development of community-based renewable energy facilities[.]”⁶⁷ The Legislature also found that the CBRE program “should accommodate a variety of community-based renewable energy projects, models, and sizes.”⁶⁸

B.

COVID-19 Emergency

On March 5, 2020, Governor David Y. Ige issued an Emergency Proclamation for COVID-19 declaring an Emergency Period

⁶⁵Act 100 at 249.

⁶⁶Act 100 at 250.

⁶⁷Act 100 at 250.

⁶⁸Act 100 at 250.

in order to, “provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people[.]”⁶⁹ Governor Ige issued supplemental proclamations that extended the Emergency Period until April 30, 2020.⁷⁰ On March 24, 2020, the Commission issued a statement on the COVID-19 Emergency prioritizing actions that can ensure reliable and affordable essential services, achieve clean energy and climate goals, and support economic recovery from COVID-19 Emergency.⁷¹

In commencing Phase 2, the Commission recognizes the current emergency and anticipates that clean energy projects and programs, such as CBRE, can meaningfully contribute to the State’s recovery from the COVID-19 Emergency. To facilitate construction of new projects and customer participation in the program, the Commission has modified elements of the CBRE Framework, which are discussed further in this order.

⁶⁹“Office of the Governor, State of Hawaii, Proclamation,” filed March 5, 2020, available at <https://governor.hawaii.gov/wp-content/uploads/2020/03/2003020-GOV-Emergency-Proclamation COVID-19.pdf>

⁷⁰See <https://governor.hawaii.gov/emergency-proclamations/>

⁷¹See “Statement from the Hawaii Public Utilities Commission on COVID-19 Emergency,” filed March 24, 2020, available at <https://puc.hawaii.gov/wp-content/uploads/2020/03/Statement-from-Hawaii-Public-Utilities-Commission-on-COVID-3-24-2020.pdf>

C.

Phase 2 Objectives

Consistent with the goals of Act 100, and recovery from the COVID-19 Emergency, the Commission seeks to dramatically expand access to the economic, environmental, and societal benefits of renewable energy. Based on observations of Phase 1, and on feedback from a diverse group of stakeholders, the Commission believes that changes to Phase 2, as originally outlined in the CBRE Framework, are necessary to significantly increase participation in the CBRE program, and to hasten construction of CBRE facilities. The Commission believes that these changes to Phase 2 are also necessary to fulfill the Legislature's objective to promote broader participation in self-generation by Hawaii residents and businesses. Therefore, the Commission establishes the following seven objectives for Phase 2.

First, the Commission will use Phase 2 to develop a robust CBRE market with competitive pricing, because the Commission believes there is significant latent demand for renewable energy among customers without rooftop solar. Second, the Commission will expand Phase 2 to help compensate for DER adoption that has fallen short of PSIP projections.⁷²

⁷²See Companies' Comments at 6.

Third, Phase 2 must promote Act 100's objectives for diverse project sizes and business models. Fourth, Phase 2 must give LMI customers access to renewable energy. Fifth, Phase 2 should encourage CBRE facilities to participate in future programs for grid services and non-wires alternatives ("NWA"). Sixth, given the slower-than-planned market uptake in Phase 1, and the imperative to support economic recovery, Phase 2 should speed market development and customer access to CBRE benefits. Seventh, the Commission anticipates the retirement of certain fossil fuel generators and believes Phase 2 should help address these near-term capacity needs. With these objectives in mind, the Commission will discuss the following specific elements of Phase 2: (1) program capacity; (2) the procurement process; (3) project capacity and distribution; (4) capacity reserved for smaller projects; (5) mechanisms to serve residential and LMI customers; and (6) special considerations for Molokai and Lanai.

D.

Framework Elements

1.

Phase 2 Program Capacity

None of the Parties oppose the Companies' proposal to increase Phase 2's program capacity to 235 MW. The Companies

linked their proposed 235 MW program capacity with their ability to achieve State renewable energy goals and with a current shortfall in DER adoption compared to the PSIP. The Joint Parties see 235 MW as a good starting point for Phase 2, and suggest periodic reevaluations to potentially expand CBRE capacity, or alternatively, to remove the capacity cap on CBRE. The Consumer Advocate does not oppose increasing Phase 2 capacity to 235 MW.

Similarly, the Commission views expanding CBRE capacity as necessary to meeting the State's renewable energy goals, and to significantly increase participation in the CBRE program. Therefore, the Commission will expand Phase 2 program capacity to 235 MW. The Commission will make Phase 2 capacity available in two tranches - Tranche 1 and Tranche 2 - which will be available consecutively. To allow the Companies' customers on all islands to have access to CBRE's benefits, the Commission will also divide CBRE capacity by island. The Commission will make most CBRE capacity available via a competitive bidding process like the RFP process underway in Docket Nos. 2017-0352 and 2019-0178. The Commission will reserve some capacity for smaller projects on Oahu, Hawaii Island, and Maui, and use a different procurement process for small projects, as described below. For Oahu, Hawaii Island, and Maui, half of the available capacity will be made available in Tranche 1, and the remainder in Tranche 2.

As described in more detail below, the Commission will also open bidding for a minimum of one dedicated LMI project on each island of Oahu, Hawaii Island, and Maui. These LMI projects shall not have a capacity cap. For Molokai and Lanai, all CBRE capacity will be available in Tranche 1. Any unallocated Tranche 1 capacity will carry over into Tranche 2. Finally, by this Order, the Commission closes CBRE Phase 1 and transfers any unallocated Phase 1 capacity to Phase 2. The capacity for each program segment is provided in Table 1, below.

Table 1. Phase 2 Program Capacity by Islands

	Tranche 1 (MW)		Tranche 2 (MW)		Total (MW)	LMI
Island	RFP	Small Projects	RFP	Small Projects	All Projects	
Oahu	75	15	75	5	170	Minimum of 1 uncapped project
Hawaii	12.5	2.5	12.5	2.5	30	Minimum of 1 uncapped project
Maui	12.5	2.5 + 975 kW transferred from Phase 1	12.5	2.5	30.975	Minimum of 1 uncapped project
Molokai	2.5 + 250 kW transferred from Phase 1				2.75	
Lanai	2.5 + 500 kW transferred from Phase 1				3	

2.

Competitive Bid Projects

The Commission's goal is to foster a procurement process for Phase 2 that significantly increases participation and hastens construction. The Commission is well-aware of the Companies' progress in procuring renewable energy and grid services through the ongoing competitive solicitations in Docket Nos. 2017-0352 and 2019-0178. Based on this progress, the Commission will adopt a similar procurement process for Phase 2. Consistent with the Companies' Comments, the Commission will implement an RFP process to award certain portions of Phase 2 capacity, as detailed below.

i.

RFP Parameters

Rather than impose a specific credit rate structure as indicated in the Framework, the Commission will use the RFP model to enable Subscriber Organizations and project developers to bid into the CBRE program, allow the Companies to evaluate proposals on price and non-price criteria, and propose projects that exceed the size criteria discussed below to the Commission for approval.

Project Size. Rather than setting maximum project sizes for Phase 2, the Commission will allow the market to determine what size projects can best meet the criteria set forth in Phase 2's RFPs. To be eligible for the RFPs, project nameplate capacity

must be 250 kW or larger. To streamline the review process, the Commission will allow projects that are sized between 250 kW and 5 MW, inclusive, on Oahu and between 250 kW and 2.5 MW, inclusive, on Maui and Hawaii Island, to proceed without further regulatory review after selection by the Companies. The Commission sets these thresholds based on similar thresholds set in the Competitive Bidding Framework, balanced with the desire to simplify the review process for these projects.⁷³ Projects that exceed these thresholds, (i.e., 5 MW on Oahu, and 2.5 MW on Maui and Hawaii Island) will undergo a review process similar to the Final Award Group projects selected under the solicitations conducted pursuant to Docket No. 2017-0352. The Commission is establishing these different size-based levels of review recognizing that smaller projects are not likely to represent the same level of long-term commitment for the unsubscribed energy and may not benefit from the same economies of scale as a larger utility-scale project.⁷⁴

⁷³See In re Public Utils. Comm'n, Docket No. 03-0372, Decision and Order No. 23121, filed December 8, 2006, Exhibit A ("Competitive Bidding Framework").

⁷⁴The Commission also notes that this structure introduces a risk of gaming by segmenting a single project into several co-located projects that are sized just below these thresholds. The Commission has looked unfavorably on this practice in the past and may disqualify bids that employ or appear to employ this strategy.

Evaluation Criteria. The Companies shall evaluate and select projects based on price and non-price criteria, as in the ongoing competitive procurement processes. The Companies shall include and evaluate commitments to residential participation in non-price criteria. The Companies must also use evaluation criteria to promote NWA to encourage and facilitate CBRE projects in locations that help defer or obviate conventional investments in transmission and distribution infrastructure. The Companies should also encourage projects that can provide community resilience benefits through the evaluation criteria.

Independent Observer. Like the ongoing competitive solicitations, the Commission will engage an independent observer to monitor RFP development, the ensuing solicitations, and contracting.

Eligible Bidders. The CBRE RFPs will be open to all bidders, including independent power producers, the Companies, and any of their affiliates. The Commission intends to provide the Companies with an opportunity to share in savings they generate for ratepayers, based on savings they deliver below benchmarks that the Commission may establish based on avoided generation costs, locational benefits where appropriate, timely progress on contract negotiation and commercial operation, and other factors. For utility self-built projects with nameplate capacities up to 5 MW on Oahu, and up to 2.5 MW on Maui and Hawaii Island, the Commission will not require the utility to submit an additional

application pursuant to General Order No. 7, but the Commission will hold the bidding utility to the terms of its bid, similar to an independent power producer. For affiliate and affiliate-related bids on projects with nameplate capacities up to 5 MW on Oahu, and up to 2.5 MW on Maui and Hawaii Island, the Commission will not require an additional review pursuant to the Affiliate Transaction Requirements adopted in Docket No. 2018-0065, but will also hold those bidders to the terms of their bids.

ii.

Process

The Commission directs the Companies to propose, in this docket, the draft RFP and associated documents, including evaluation criteria, consistent with the parameters set forth above. To reiterate, the Commission will not separately review the contract for any project with a nameplate capacity between 250 kW and 5 MW, inclusive, on Oahu, and between 250 kW and 2.5 MW, inclusive, on Maui and Hawaii Island. The Parties and Participants will be allowed to comment and propose revisions to draft RFP and associated documents. After those comments and proposed revisions are filed, the Companies shall file final

versions that respond to or otherwise incorporate those comments and proposed revisions.

3.

Small Projects

i.

Reserved Capacity

The Joint Parties proposed a “carve out of total program capacity for smaller projects (e.g., <250 kW).”⁷⁵ Cognizant of the Legislature’s finding that the CBRE program “should accommodate a variety of community-based renewable energy projects, models, and sizes[,]”⁷⁶ the Commission will reserve 30 MW of Phase 2’s capacity for projects smaller than 250 kW. To ensure that CBRE projects may be built in each service territory, the Commission reserves capacity as follows. Oahu will have 15 MW reserved for small projects in Tranche 1, and 5 MW in Tranche 2. Hawaii Island and Maui will each have 2.5 MW reserved for small projects in Tranche 1, and 2.5 MW each in Tranche 2. In addition, as discussed below, unallocated capacity from Phase 1 shall also be available to smaller projects.

⁷⁵Joint Comments at 11.

⁷⁶Act 100 at 250.

ii.

Tariff

The Commission is also aware that bidding into the RFP process may be difficult for developers of smaller projects, and reserving capacity for smaller projects may not be enough to ensure they are developed. Therefore, the Commission directs the Companies to develop a simplified tariff to accommodate CBRE Phase 2 projects that are smaller than 250 kW. The Commission will not require additional regulatory approvals for Phase 2 projects that are smaller than 250 kW and that meet the terms of the tariff. The Companies must also simplify the interconnection and administrative processes for small projects.

Bidding Mechanism. To encourage competitive prices, the tariff shall include a competitive credit rate procurement ("CCRP") mechanism, as described in the Framework, in the event that project applications exceed the program capacity.

Credit Rates. For Phase 2, Tranche 1, the credit rates will remain the same as for Phase 1, as set forth in the Table 2, below.

Table 2. Credit Rates for Small Projects

CBRE Phase 2 Tranche 1: Small Projects	
Island	CBRE Credit Rates (cents/kWh)
Oahu	15.00
Hawaii	15.00
Maui	16.50

Consistent with the Framework, Tranche 2 credit rates will be capped at the lowest credit rates determined through the CCRP from Tranche 1.

Storage. The Commission encourages - but does not require - storage for smaller CBRE projects in Phase 2. To encourage storage, the tariff for small projects shall not provide for compensable curtailment or favorable curtailment treatment. The tariff shall also allow small projects to participate in future grid services programs to allow projects with storage to capture new value streams. The tariff shall also encourage small CBRE projects to participate in NWA opportunities in locations that help defer or obviate investments in transmission

and distribution infrastructure, and/or that are located in facilities that provide community resilience benefits.

Utility Participation. The CBRE tariff for small projects shall be open to all ownership types, including independent power producers, the Companies, and any of their affiliates. The Companies shall also have an opportunity to share in savings they generate for ratepayers, based on savings they deliver below benchmarks that may be established based on avoided generation costs, locational benefit where appropriate, timely progress on contract negotiation and commercial operation, and other factors. For utility self-built small projects, the Commission will not require the utility to submit an additional application pursuant to General Order No. 7, but the Commission will hold the bidding utility to the terms of its bid similar to an independent power producer. For affiliate and affiliate-related bids on small projects, the Commission will not require an additional review pursuant to the Affiliate Transaction Requirements adopted in Docket No. 2018-0065, but will also hold those bidders to the terms of their bids.

5.

LMI Customers

Developing projects to serve LMI customers can present unique challenges. To promote such projects, and to help fulfill

Act 100's goals, the Commission will open bidding to build at least three dedicated LMI projects, one on Oahu, the second on Hawaii Island, and the third on Maui. These projects must serve only LMI customers. These projects shall be in addition to the 235 MW allocated to Phase 2 (i.e., they shall not count against the 235 MW cap). Rather than set a maximum project size for these dedicated LMI projects, the Commission will allow bidders to propose sizes based on market demand and project cost. Bidders shall be required to propose pricing for any unsubscribed energy, if applicable. The Commission is setting a minimum threshold of one project per island, but may approve additional projects if there are more bids with compelling customer benefits.

If there are no successful competitive bids for the LMI project on one island or more, then the Commission will consider a utility self-build option for that island. Any utility self-build application shall be consistent with Section VI of the Competitive Bidding Framework.⁷⁷

LMI projects must also be allowed to participate in future grid services programs to allow projects to capture new value streams, serve as NWA in locations that help defer or obviate investments in transmission and distribution infrastructure, and/or offer community resilience benefits. For the LMI projects,

⁷⁷See Competitive Bidding Framework, Section VI.

as with other CBRE projects, the Companies shall also have an opportunity to share in savings they generate for ratepayers, based on savings they deliver below benchmarks that may be established based on avoided generation costs, locational benefit where appropriate, timely progress on contract negotiation and commercial operation, and other factors. Although the Commission encourages the Companies to pursue such shared savings opportunities, the Commission expects costs for LMI projects may be higher than other CBRE facilities. The Commission may adjust LMI project procurement options in Tranche 2 depending on results in Tranche 1.

The Commission agrees with the Companies' recommendation that an LMI customer be "defined according to the HUD definition for a Low- and Moderate-Income Person" which means "a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD."⁷⁸ Using this metric, which is widely available to the public, will allow SOs to have the necessary documentation to properly classify LMI subscribers. As part of their RFP design, the Companies shall explain how they will verify this eligibility and prevent gaming.

⁷⁸See Companies' Comments at 27.

Molokai and Lanai

The Commission recognizes that building CBRE projects on Molokai and Lanai may present additional complexities, partly due to the smaller size of these markets and the electric grids that serve them. To promote CBRE development in these markets, the Commission establishes special conditions for Molokai and Lanai, to maintain the CBRE program's scale and reduce its complexity. Instead of a phased approach - i.e., Tranche 1 and Tranche 2 - bidders may propose projects as soon as Phase 2 opens. Bidders may propose projects of any size up to the cap for each island. The Commission may update the caps and other program details based on the results of the ongoing competitive solicitations for those islands.

The Commission encourages the Companies to use the RDG PPA model for Molokai and Lanai. Although the Commission will not require storage for CBRE projects on Molokai or Lanai, it encourages evaluation criteria that promote projects that provide grid services, locational benefits, reliability, and resilience benefits. The Companies must also consider residential participation and LMI participation in their non-price evaluation criteria. The Commission is particularly interested in stakeholder feedback regarding how to promote residential and LMI participation on Molokai and Lanai. The Commission will consider

a shared savings mechanism for CBRE projects on Molokai and Lanai, similar to the mechanism described above for other islands.

7.

Other Program Elements

i.

Unused Phase 1 Capacity

Consistent with the Companies' and the Consumer Advocate's comments, and consistent with the Framework, the Commission closes eligibility for Phase 1 as of the date of this Order. Any unallocated program capacity from Phase 1 shall be included as part of Phase 2, as follows. There is available Phase 1 capacity on Maui (currently 974.25 kW), Lanai (currently 500 kW), and Molokai (currently 250 kW). By this order, this capacity is transferred to each respective island in Phase 2. For Maui, it is transferred to the cap for small projects, and for Lanai and Molokai, it is transferred to their overall caps.

Projects currently under development in Phase 1 may continue to avail themselves of Phase 1's terms, provided that they are commercially operational (i.e., providing or available to provide credits to subscribers) before the launch of Tranche 2 in Phase 2, which the Commission expects to begin in the second half of 2021. If any currently allocated Phase 1 capacity becomes

unallocated after the date of this Order, that capacity shall be included in Tranche 2.

ii.

Eligible Technology

The Commission intends for Phase 2 to be open to all generation technology that is eligible under the State's renewable portfolio standard ("RPS") as defined by HRS § 269-92. The Companies may propose narrowing the scope of eligible technology, within the bounds of the RPS. The Commission will depend upon the Parties to help develop RFP evaluation criteria that encourages projects to meet all CBRE program objectives, and grid needs specified in the RFP.

iii.

Compensable Curtailment

In adopting the Framework, the Commission stated that "compensable curtailment policy will be revisited prior to the commencement of Phase 2."⁷⁹ The Commission will not constrain developers' ability to propose a variety of compensation structures for Phase 2 RFP projects, but similar to the guidance in Docket No. 2017-0352, the Commission encourages the continued

⁷⁹Framework at 19.

use of the RDG PPA. This will allow for consistency in the contractual terms and grid operation for new CBRE projects. For Phase 2 small projects, there shall be no compensable curtailment, and the Commission encourages utilization of energy storage, as discussed above.

iv.

Site Control

As part of developing their RFPs and tariffs, the Companies shall propose specific requirements for documenting site control early in the SO's application process.

v.

Independent Observation

As with Phase 1, CBRE Phase 2 will make extensive use of an IO. The Companies shall include in their CBRE IO provisions terms similar to those in the ongoing competitive solicitations.

vi.

Lowering Barriers to Customer Participation

The Commission recognizes that CBRE participation during the economic recovery may be even more challenging for a wider range of customers. The Commission therefore encourages the Companies to explore expanded use of pay as you go or on-bill

repayment options that can lower the initial barriers to participation, as well as financing options that further support the broad subscription in CBRE anticipated for Phase 2.

E.

Procedural Schedule for Phase 2

1.

Small Projects, LMI Projects, Molokai, and Lanai

The Commission will prioritize developing CBRE programs for smaller projects, LMI customers, and the islands of Molokai and Lanai.

- Therefore, the Commission directs the Companies to develop draft tariffs for smaller projects, RFPs for Molokai and Lanai, and RFPs for LMI projects for Oahu, Maui, and Hawaii Island, and file them by July 9, 2020.
- On July 29, 2020, the Commission will convene a technical conference to discuss these drafts.
- Parties and Participants will then have the opportunity to file comments on these draft tariffs and RFPs. These comments shall be due on August 12, 2020.
- The Companies shall revise their draft tariffs and RFPs in response to these comments, and file final tariffs and RFPs for Commission review by September 8, 2020.

2.

Phase 2 RFP Projects

The Commission intends to open the large project RFP for Tranche 1 in the second half of 2020 and for Tranche 2 in the second half of 2021. This consecutive approach will allow the Commission and stakeholders to incorporate lessons learned from Tranche 1 into Tranche 2. The Commission sets the following procedural schedule.

- By September 9, 2020, the Companies shall file their draft RFP and associated documents for large projects in Tranche 1, including evaluation criteria consistent with the guidance and directives in this Order.
- On September 30, 2020, the Commission will host a technical conference for stakeholders to discuss the draft RFP.
- Following the technical conference, comments on the draft RFP will be due by October 14, 2020.
- The Companies shall revise their draft RFP in response to these comments, and file their final Tranche 1 RFP by October 28, 2020.

Thereafter, the Commission will endeavor to follow a procedural timeline similar to the RFP proceedings in Docket Nos. 2017-0352 or 2019-0178. The Commission expects to follow a similar timeline for Tranche 2, starting in September 2021.

F.

Consumer Advocate's Motion for Clarification

The Consumer Advocate seeks clarification of the Tariff Order, regarding the description of the CBRE Subscribers Bill of Rights, attached as Appendix II to each Company's Tariff Rule No. 26 ("Disclosure Checklist"), and whether the Commission intends to approve the CBRE Subscribers Bill of Rights, which is part of the Disclosure Checklist.⁸⁰ The Consumer Advocate recommends, for the purpose of consistency, replacing references to "Consumer Bill of Rights" and "Customer Bill of Rights" with the term "State of Hawaii CBRE Subscribers Bill of Rights."⁸¹ The Consumer Advocate also recommends that the CBRE Subscribers Bill of Rights be placed at the top of the Disclosure Checklist.⁸² Attached to its Motion for Clarification, the Consumer Advocate provides proposed revisions to the Disclosure Checklist, and seeks clarification that "the revisions are necessary and consistent with the Commission's intent for the CBRE program and meet with Commission approval."⁸³ Finally, the Consumer Advocate "believes a copy of the CBRE Subscribers Bill of Rights document should be

⁸⁰See Motion for Clarification at 1.

⁸¹Motion for Clarification at 5.

⁸²See Motion for Clarification at 5.

⁸³Motion for Clarification at 6.

posted on the Hawaiian Electric Companies' CBRE program website with other program-related documents so that it can be easily accessed by potential Subscribers and potential Subscriber Organizations."⁸⁴

The Companies state that they do not oppose the Consumer Advocate's Motion for Clarification.⁸⁵ Specifically, the Companies "do not oppose the Consumer Advocate's request to reposition the CBRE Subscriber Bill of Rights disclosure at the top of the Disclosure Checklist, and using the original disclosure language that was proposed by the Consumer Advocate in February 2018."⁸⁶

Based on this information, the Commission grants the Consumer Advocate's Motion for Clarification, as follows. The Commission appreciates the Consumer Advocate's efforts to educate and protect CBRE subscribers. Rather than formally approving the CBRE Subscribers Bill of Rights, the Commission encourages the Consumer Advocate to continue working with the other Parties and Participants, and relevant State agencies, regarding any future changes to the CBRE Subscribers Bill of Rights, and collaborate on any proposed updates, as necessary.

⁸⁴Motion for Clarification at 8.

⁸⁵See Companies' Response at 1.

⁸⁶Companies' Response at 2.

The Companies shall reposition the CBRE Subscriber Bill of Rights disclosure to the top of the Disclosure Checklist, and use the original disclosure language that the Consumer Advocate proposed in February 2018. The Companies shall also replace references to "Consumer Bill of Rights" and "Customer Bill of Rights" with the term "State of Hawaii CBRE Subscribers Bill of Rights."

G.

Motions to Withdraw

1.

EFCA

EFCA explains that, because it is ceasing operations nationally, it is unable to continue its participation in this proceeding.⁸⁷ The Consumer Advocate does not object to EFCA's Motion to Withdraw. The Commission notes that EFCA's Motion to Withdraw erroneously states that EFCA seeks to withdraw from "Docket No. 2018-0163" and not Docket No. 2015-0389.⁸⁸

Because EFCA is ceasing operations, and because EFCA has filed motions to withdraw from all Commission dockets, the Commission treats EFCA's Motion to Withdraw as a motion to withdraw from the instant docket. Based on the foregoing,

⁸⁷EFCA's Motion to Withdraw at 1.

⁸⁸EFCA's Motion to Withdraw at 1.

EFCA's Motion to Withdraw from this proceeding is granted. As of the date of this Order, EFCA is no longer a Participant in this docket, and is hereby removed from the service list.

2.

LOL

LOL explains that although it played an active role in earlier phases of this proceeding, it has "re-prioritized its focus."⁸⁹ The Consumer Advocate does not object to LOL's Motion to Withdraw.

Based on the foregoing, LOL's Motion to Withdraw from this proceeding is granted. As of the date of this Order, LOL is no longer a Participant in this docket, and is hereby removed from the service list.

IV.

ORDERS

THE COMMISSION ORDERS:

1. The Framework for Phase 2 is modified as set forth in this Order.

2. Companies shall develop and file draft tariffs for smaller projects, and RFPs for LMI customers, Molokai, and Lanai,

⁸⁹LOL's Motion to Withdraw at 1.

consistent with the guidance and directives in this Order, by July 9, 2020.

3. The Commission will convene a technical conference on July 29, 2020 to discuss these draft Tariffs and RFPs.

4. Comments from Parties and Participants on the draft tariffs for smaller projects, and RFPs for LMI customers, Molokai, and Lanai shall be due by August 12, 2020.

5. The Companies shall revise their draft tariffs for smaller projects, and RFPs for LMI customers, Molokai, and Lanai in response to comments, and file final versions for Commission review by September 8, 2020.

6. By September 9, 2020, the Companies shall file their draft RFP for Tranche 1, including evaluation criteria consistent with the guidance and directives in this Order.

7. On September 30, 2020, the Commission will convene a technical conference on the draft RFP for Phase 2, Tranche 1.

8. All Parties and Participants may file written comments on the Draft RFP and associated tariff, by October 14, 2020.

9. The Companies shall file their final RFP for Phase 2, Tranche 1, and the associated Phase 2 tariff, by October 28, 2020.

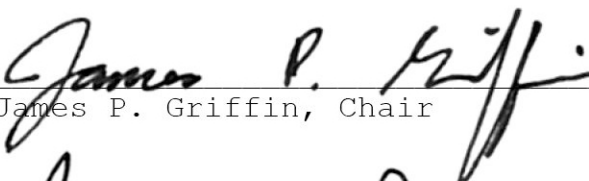
10. The Consumer Advocate's Motion for Clarification is granted, subject to the conditions set forth herein.

11. EFCA's Motion to Withdraw is granted.


12. LOL's Motion to Withdraw is granted.

DONE at Honolulu, Hawaii APRIL 9, 2020.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
James P. Griffin, Chair

By 
Jennifer M. Potter, Commissioner

By 
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:


Mike S. Wallerstein
Commission Counsel

2015-0389.ljk

CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing Order was served on the date it was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.

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COMMISSION

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