

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

---In the Matter of---)
)
PUBLIC UTILITIES COMMISSION) DOCKET NO. 2013-0194
)
Instituting an Investigation to)
Reexamine the Feed-In Tariff)
Program for Hawaiian Electric)
Company, Inc., Hawaii Electric)
Light Company, Inc., and Maui)
Electric Company, Limited)
_____)

DECISION AND ORDER NO. 32499

PUBLIC UTILITIES
COMMISSION

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DECISION AND ORDER

By this Decision and Order ("Order") the commission approves, subject to certain conditions, the joint plan for administration of the Feed-in Tariff ("FIT") program queues ("Joint Plan") submitted to the commission on September 30, 2013, by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, the "HECO Companies") and the INDEPENDENT OBSERVER ("IO").¹

¹Letter from Dean K. Matsuura, Hawaiian Elec. Co., regarding Docket No. 2013-0194, filed on September 30, 2013 ("Joint Plan").

I.

Background

A.

FIT Implementation Docket

On October 24, 2008, the commission opened the FIT Implementation Docket to examine the implementation of FITs in the HECO Companies' service territories.² Prompted by an "Energy Agreement,"³ which included a commitment to implement a FIT program for the HECO Companies, the commission described FITs in the Opening Order as a "set of standardized, published purchased power rates, including terms and conditions, which the utility will pay for each type of renewable energy resource based on

²In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, Order Initiating Investigation, filed on October 24, 2008 ("2008 FIT Order").

³"Energy Agreement" refers to the "Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies," executed on October 20, 2008, by the former Governor of the State of Hawai'i, the Department of Business, Economic Development, and Tourism ("DBEDT"), the HECO Companies, and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"). The Energy Agreement represented "a commitment on the part of the State and the HECO Companies to accelerate the addition of new, clean resources on all islands; to transition the HECO Companies away from a model that encourages increased electricity usage; and to provide measures to assist consumers in reducing their electricity bills." 2008 FIT Order at 2.

project size fed to the grid."⁴ The commission named the HECO Companies and the Consumer Advocate as parties to the docket.⁵

On September 25, 2009, the commission issued its Decision and Order in the FIT Implementation Docket⁶ which set forth general principles for the implementation of FITs in the HECO Companies' service territories:

For the initial FIT, there will be rates for photovoltaic ("PV"), concentrated solar power ("CSP"), onshore wind, and in-line hydropower projects up to 5 [megawatts ("MW")] depending on technology and location. There will also be a "baseline" FIT rate to encourage other renewable energy technologies. Net energy metering ("NEM"), competitive bidding, negotiated power purchase agreements ("PPAs"), Schedule Q, and avoided cost offerings will continue to exist as additional and complementary mechanisms to provide multiple avenues for the procurement of renewable energy.

FIT rates will be based on the project cost and reasonable profit of a typical project. The rates will be differentiated by technology or resource, size, and interconnection costs; and will be levelized. The FIT program will be reexamined two years after it first becomes effective and every three years thereafter.⁷

⁴2008 FIT Order at 2.

⁵2008 FIT Order at 5-6.

⁶In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, Decision and Order, filed on September 25, 2009 ("2009 FIT Order").

⁷2009 FIT Order at 1-2. The commission observes that the PV environment has changed since the date of the FIT Order, and that it continues to change. For example, there has been a significant

Specifically, the commission approved FITs according to the following tiers and project sizes⁸:

Tier	Project Size
1	0-20 kilowatts ("kW") on all islands
2	Greater than 20 kW and up to and including: PV: 500 kW on Oahu, 250 kW on Maui and Hawaii, and 100 kW on Lanai and Molokai; CSP: 500 kW on Oahu, Maui, and Hawaii, and 100 kW on Lanai and Molokai; In-line hydropower and onshore wind: 100 kW on all islands
3	Greater than Tier 2 maximums and up to and including the lesser of 5 MW on Oahu and 2.72 MW on Maui and Hawaii, or 1% of the system peak load from the previous year, except that wind generation is precluded on Maui and Hawaii

The commission directed a reexamination of FITs after two years of implementation:

The commission... will direct a reexamination of the FIT two years after it becomes effective. Also referred to as a FIT Update by the parties, the periodic reexamination may focus on updating tariff pricing, applicable technologies, project sizes, any other matters relevant to the FIT, including queuing and interconnection

decrease in the cost of PV panels, which, in turn, results in lower project costs. The commission will review FIT rates and project pricing to ensure that they account for these changes.

⁸2009 FIT Order at 45.

procedures, curtailment compensation, and non-rate terms and conditions.⁹

The commission also ruled that tariffs for the FIT program, including specific FIT rates, should be filed with the commission in the next tariff phase of the proceeding.¹⁰

The commission "decline[d] to dictate specific queuing and interconnection procedures for FIT projects at [that] time," but instead directed the HECO Companies "to collaborate with the other parties to craft queuing and interconnection procedures..."¹¹ The commission mandated that "[a]n independent third party... should oversee the queuing process for FIT projects... [,] assist in developing the queuing process, ...inform parties of the queue length and their status in it... [, and] monitor how the utility administers the queue."¹²

The investigation then entered into a new phase focused on developing tariffs for the HECO Companies' FIT program. In this phase, the parties filed proposed tariffs and standard FIT agreements, information requests and responses, and comments on the various proposals.

⁹2009 FIT Order at 98.

¹⁰2009 FIT Order at 2.

¹¹2009 FIT Order at 92.

¹²2009 FIT Order at 93.

By order filed on January 28, 2010, the commission approved the contract between HECO and the IO, Accion Group - Harold T. Judd, to conduct the oversight of the queuing process for FIT projects,¹³ as described in the 2009 FIT Order.¹⁴

On October 13, 2010, based on the voluminous record, the commission approved the FIT Tier 1 and Tier 2 Tariffs, the Standard Agreement, and the Queuing and Interconnection Procedures.¹⁵

On December 29, 2011, the commission approved the FIT Tier 3 Tariffs, the Standard Agreement, and the Queuing and Interconnection Procedures.¹⁶

¹³In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, "Order Approving Independent Observer Contract," filed on January 28, 2010.

¹⁴2009 FIT Order at 93.

¹⁵In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, "Order Approving FIT Tiers 1 and 2 Tariffs, Standard Agreement, and Queuing and Interconnection Procedures, and Concurring Opinion of Leslie H. Kondo, Commissioner," filed on October 13, 2010.

¹⁶In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, Order No. 30074, filed on December 29, 2011.

Between May and September of 2012, the HECO Companies filed several motions, seeking clarification on certain issues that arose in connection with the administration of the FIT queues.

Also during this time period, the IO prepared a status report, dated May 23, 2012, documenting numerous complaints that the IO had received from developers concerning the status of applications and the apparent lack of movement of projects in the queues, among other things.¹⁷

Between June and October of 2012, the commission adjudicated claims relating to queue administration and mismanagement, and gaming by developers.

On December 21, 2012, the commission issued an order in the FIT Implementation Docket initiating a reexamination of the FIT program, and directing the HECO Companies to file a reexamination report on Tiers 1 and 2 of the FIT program.¹⁸ Accordingly, on March 4, 2013, the HECO Companies submitted their report ("HECO Companies' Reexamination Report").¹⁹

¹⁷"Status Report of the Feed In Tariff Independent Observer, regarding Docket No. 2008-0273," served on the Parties on May 25, 2012.

¹⁸In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, Order No. 30919, filed on December 21, 2012, at 1 and 4.

¹⁹"Hawaiian Electric Companies' Reexamination Report of Tiers 1 and 2 of the FIT Program, regarding Docket No. 2008-0273," filed on March 4, 2013.

Therefore, on April 15, 2013, the commission ordered the IO to file an evaluation report on Tiers 1 and 2 of the FIT program.²⁰ Subsequently, the IO submitted its report ("IO's Reexamination Report"), dated April 22, 2013.²¹

²⁰Letter from Kaiulani Kidani Shinsato, State of Hawaii Public Utilities Commission, to Harold T. Judd, Accion Group," regarding Docket No. 2013-0194, filed on April 15, 2013, at 1.

²¹"Status Report of the Feed-in Tariff Independent Observer, Accion Group, Inc., regarding Docket No. 2008-0273," served on the Parties on April 24, 2013.

The commission observes that on August 21, 2014, it initiated a proceeding to investigate distributed energy resource ("DER") policies. In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate Distributed Energy Resource Policies, Docket No. 2014-0192, Order No. 32269, filed August 21, 2014 ("DER Order"). The purpose of that docket is to investigate the technical, economic, and policy issues associated with DER as they pertain to the electric operations of the HECO Companies. The DER Docket will address, among other things, certain facets of the FIT program. However, the DER Order stated that consideration of the Joint Plan would remain in this docket:

Thus, the FIT program - as well as the issues it presents - continues to evolve. Given this evolution, various facets of the FIT program will be addressed in several related dockets. In Docket No. 2013-0194, the commission will address the existing FIT program, including the Joint Plan for Queue Administration. Future revisions or modifications to the FIT program will be addressed either in this docket [that is, Docket No. 2014-0192] or in Docket No. 2014-0183, which has been established to review the HECO Companies' Power Supply Improvement Plans ("PSIPs").

DER Order at 5, n.7.

B.

FIT Reexamination Docket

On August 27, 2013, the commission closed the FIT Implementation Docket.²² On that same date, the commission opened a new docket to reexamine the FIT program ("FIT Reexamination Docket").²³

In the Opening Order for the FIT Reexamination Docket, the commission described the initial FIT program as a "two-year trial, upon which a reexamination of 'lessons learned' could be based."²⁴ The commission cited problems with the FIT program, including: "possible gaming by FIT developers;"²⁵ pricing for FIT projects that "does not reflect present market conditions;"²⁶ "areas of poor utility management of the FIT queues, such as delay in Interconnection Requirements Study ("IRS") determinations and

²²In the Matter of Public Utilities Commission Instituting a Proceeding to Investigate the Implementation Of Feed-in Tariffs, Docket No. 2008-0273, Order No. 31423, filed on August 27, 2013.

²³Order No. 31424, filed on August 27, 2013 ("Order No. 31424" or "2013 FIT Order"). The commission incorporated by reference the HECO Companies' Reexamination Report and the IO's Reexamination Report because the reports "provide a foundation upon which to start a reexamination of the FIT program in this new proceeding." Id. at 7.

²⁴2013 FIT Order at 8.

²⁵2013 FIT Order at 8-9.

²⁶2013 FIT Order at 9.

processing;"²⁷ the lack of FIT project development milestones, such that "projects are permitted to remain on the FIT queues without any proof [of] actual development efforts;"²⁸ the low successful installation rate for the FIT projects;²⁹ and "significant changes in circumstances shaping efforts to integrate renewable resources onto Hawaii's electric grids since 2008 when the Energy Agreement was signed and the FIT Docket was opened."³⁰ The commission further expressed its intent to "review the FIT program more holistically in this proceeding, with appropriate reference to the already sizeable amounts of renewable energy that are expected to be integrated onto the HECO Companies' grids via other procurement processes (e.g., NEM, competitive bidding, and waiver projects)."³¹

The commission further ordered:

To avoid confusion and uncertainty regarding the status of FIT projects during the commission's reexamination of the FIT program, the commission directs the HECO Companies and the IO to submit, for the commission's review and approval, a joint plan for administration of the FIT queues while this reexamination proceeding is pending... The joint plan

²⁷2013 FIT Order at 10.

²⁸2013 FIT Order at 10 (citing IO's Reexamination Report at 38).

²⁹2013 FIT Order at 10-11.

³⁰2013 FIT Order at 11.

³¹2013 FIT Order at 12.

should also adhere to the FIT tariff and commission objectives of moving shovel-ready projects to completion within tariff-prescribed time frames.³²

The commission named the HECO Companies and the Consumer Advocate as parties to the FIT Reexamination Docket.³³ The commission also detailed the applicable procedural requirements for intervention and participation without intervention, pursuant to Hawaii Administrative Rules ("HAR") Chapter 6-61.³⁴

Thereafter, sixteen motions to intervene were timely submitted by the following: (1) DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM ("DBEDT"), (2) BLUE PLANET FOUNDATION ("Blue Planet"); (3) HAWAII RENEWABLE ENERGY ALLIANCE ("HREA"); (4) MERIDIAN 158 LLC ("Meridian"); (5) SCATEC SOLAR NORTH AMERICA, INC. ("Scatec"); (6) TRITIUM ENTERPRISES LLC ("Tritium3"); (7) HAWAII SOLAR ENERGY ASSOCIATION ("HSEA"); (8) DISTRIBUTED ENERGY PARTNERS LLC ("DEP"); (9) SOLAR HUB UTILITIES LLC ("Solar Hub"); (10) DISTRIBUTED WIND ENERGY ASSOCIATION ("DWEA"); (11) SUNPOWER CORPORATION, SYSTEMS ("SunPower"); (12) TAWHIRI POWER LLC ("Tawhiri"); (13) RENEWABLE ENERGY ACTION COALITION OF HAWAII, INC. ("REACH");

³²2013 FIT Order at 15-16.

³³2013 FIT Order at 14.

³⁴2013 FIT Order at 15.

(14) ALOHI SUN, LLC ("Alohi Sun"); (15) CDF ENGINEERING LLC ("CDF"); (16) HAWAII PV COALITION ("Hawaii PV"), collectively, "Intervenors."

On September 30, 2013, the HECO Companies and the IO timely submitted the "Joint Plan".

On October 23, 2013, the commission granted Intervenor status to all sixteen movants.³⁵ Subsequently, on or about November 12, 2013, seven Intervenors - DBEDT, Blue Planet, Meridian, Tritium3, HSEA, DEP, and Solar Hub - submitted comments on the Joint Plan. Four Intervenors - DWEA, SunPower, Tawhiri, and REACH - stated that they did not have comments on the Joint Plan. In addition, two Intervenors submitted joinders to comments on the Joint Plan - HSEA to Blue Planet's comments, and Scatec to Meridian's comments. Finally, three Intervenors - Alohi Sun, CDF, and Hawaii PV - did not submit comments on the Joint Plan.

On November 14, 2013, the Consumer Advocate submitted its comments on the Joint Plan.³⁶

³⁵Order No. 31609, filed on October 23, 2013.

³⁶"Division of Consumer Advocacy's Comments on the Hawaiian Electric Companies and Independent Observer Joint Plan for Administration of the FIT Queues; Certificate of Service," filed November 14, 2013 (collectively, "CA's Comments").

On November 25, 2013, the HECO Companies and the IO submitted their response to comments on the Joint Plan.³⁷

In addition, between October 2013 and July 2014, five public comments were submitted on the Joint Plan.³⁸

II.

Joint Plan, Comments, And Responses To Comments

The Joint Plan is comprised of eight major steps for administration of the FIT queues, summarized as follows:

³⁷"Response to Comments on the Hawaiian Electric Companies and Independent Observer Joint Plan for Queue Administration Pending FIT Reexamination; Certificate of Service," (collectively, "HECO Companies and IO's Response"), filed November 25, 2013.

³⁸Letter from Trip Lynch to State of Hawaii Public Utilities Commission, October 23, 2013 (expressing concern with eliminating the Reserve Queue and stating that the requirement to have a building permit application number before applying for the Reserve Queue "raised the bar" for applying); Letter from Steven Abbey, Neighborhood Power Corp., to State of Hawaii Public Utilities Commission, November 7, 2013 ("NPC is very concerned about, and strongly opposes, the recommendation of the Joint Plan to 'release' projects currently in the reserve queue."); Letter from Michael Angelo Leone, Green Global Communities, to State of Hawaii Public Utilities Commission, November 8, 2013 ("I oppose, and am very concerned about the Joint Plan's recommendation to 'release' current projects in the reserve queue..."); Letter from Marco Mangelsdorf, ProVition Solar, Inc., to State of Hawaii Public Utilities Commission, February 5, 2014 ("I am writing in support of the Independent Observer, Accion Group, being adequately and promptly paid for the work performed to date."); Letter from Ron Richmond, Waiiau Gardens Kai E, AOA, to State of Hawaii Public Utilities Commission, July 15, 2014 ("I respectfully urge the Commission to issue a timely decision and order that reopens the FIT Tier 2 application process with a rate favorable to customer sited installations.").

(1) releasing Reserve Queue applications; (2) categorizing Active Queue applications; (3) establishing deadlines to cure incomplete applications in the Active Queue; (4) removing incomplete applications from the Active Queue; (5) establishing a revised guaranteed commercial operation date ("COD") for each application; (6) establishing development milestones for each project after execution of the FIT agreement; (7) monitoring and enforcing development milestones; and (8) removing projects from the Active Queue that do not meet development milestones. In addition, the Joint Plan includes a procedure for granting extensions for good cause.³⁹

A.

Step No. 1: Release Reserve Queue Applications

1.

Description Of Step No. 1

In Step No. 1, the HECO Companies and the IO propose to release all applications in the FIT Reserve Queue.⁴⁰ The HECO Companies created the Reserve Queue to accommodate additional applications after the FIT Active Queue capacity unit

³⁹Joint Plan at 3-11.

⁴⁰Joint Plan at 3.

had been reached.⁴¹ The HECO Companies and the IO assert that there was a possibility, but "never a guarantee," that Reserve Queue projects would eventually progress to the Active Queue.⁴²

With regard to application fees and reservation fees for Reserve Queue projects, the HECO Companies and the IO further propose: (1) refunding all application fees, which were previously deemed non-refundable, and (2) refunding all reservation fees, which were previously deemed refundable upon successful startup of the project within the allowed timeframe, for projects that were in the Reserve Queue as of July 26, 2013.⁴³

To explain the rationale behind the July 26, 2013 cut-off date, the HECO Companies and the IO state:

In anticipation of actions by the Commission to initiate the investigatory process to reexamine the FIT Program set forth in Order No. 31424, the FIT Queues were set by the IO as of July 26, 2013, so that all new applications would be assigned to a Reserve

⁴¹See, e.g., HECO's Schedule FIT Tier 1 and Tier 2, (Revised Sheet No. 78A, Effective December 30, 2011), ¶ C ("Should additional Sellers express interest in this Schedule FIT after the applicable system limits are reached [in the Active Queue], the Company will maintain a list of interested Sellers, ranked and prioritized in a reserve queue under this Schedule FIT."); HECO's Schedule FIT Tier 3 (Sheet No. 80.1A, Effective December 30, 2011), ¶ C (stating the same as Schedule FIT Tier 1 and Tier 2, but with respect to Tier 3).

⁴²Joint Plan at 3.

⁴³Joint Plan at 3-4.

Queue and that no Reserve Queue applications could move to an Active Queue.⁴⁴

2.

Comments On Step No. 1

Neither the Consumer Advocate nor any of the Intervenors stating a position on Step No. 1 of the Joint Plan support releasing all applications on the Reserve Queue.

Blue Planet (joined by HREA) argues that "there does not appear to be a sufficient record upon which the Commission may base a decision to terminate reserve queue projects and abolish the reserve queue."⁴⁵ According to Blue Planet, Order No. 31424 "does not directly discuss, authorize or necessarily contemplate abolishing the reserve queue and terminating all reserve queue projects. The Joint Plan's proposal appears to fall outside the scope of interim measures contemplated by Order No. 31424 with regard to queuing matters."⁴⁶

The Consumer Advocate does not support Step No. 1 because it believes "the FIT tariff created substantive rights to

⁴⁴Joint Plan at 4 n. 4.

⁴⁵Blue Planet Foundation's Comments on the Joint Plan for Queue Administration Pending Feed-in Tariff Reexamination; Certificate of Service, filed on November 12, 2013, at 4 (collectively, "Blue Planet's Comments").

⁴⁶Blue Planet's Comments at 4.

reserve queue applicants."⁴⁷ The Consumer Advocate points to the HECO Companies' Schedule FIT for Tiers 1 and 2, and the Schedule FIT for Tier 3, which state:

Participation under this Schedule FIT will be available on a prioritized queue basis as determined by the Company with the concurrence of the Independent Observer (the independent third party retained by the Company and approved by the Hawaii Public Utilities Commission ("Commission") to oversee the initial development and subsequent administration of the Company's queuing and interconnection procedures). Availability of service under this Schedule FIT shall be closed to new Sellers once Schedule FIT Contract Capacity (defined as the sum of all Sellers' contracted Design Capacity) reaches applicable system limits as determined through the Company's reliability standards and other appropriate mechanisms approved by the Commission. Should additional Sellers express interest in this Schedule FIT after the applicable system limits are reached, the Company will maintain a list of interested Sellers, ranked and prioritized in a reserve queue under this Schedule FIT. Sellers on this reserve queue will be allowed to participate under this Schedule FIT according to their rank order when sufficient capacity becomes available, either due to the start of a new subscription period or if other Sellers who have entered into an Agreement withdraw or fail to meet project development deadlines as specified in this Schedule FIT. The Company shall review and adjust the annual system

⁴⁷CA's Comments at 3. The Consumer Advocate, however, makes clear that it will be arguing for lowered FIT pricing for all tiers during the FIT reexamination process. Id.

limits pursuant to procedures adopted by the Commission.⁴⁸

Although the Consumer Advocate agrees with the HECO Companies and the IO that the Schedule FIT contains no guarantee that a project on the Reserve Queue will progress to the Active Queue,⁴⁹ the Consumer Advocate notes, "the language does explicitly state that a project on the reserve queue will be allowed to participate under Schedule FIT when sufficient capacity becomes available,"⁵⁰ thus creating a substantive right for Reserve Queue applicants "that would not otherwise exist but for the tariff."⁵¹ In light of this purported substantive right, the Consumer Advocate "cannot... in good faith argue that reserve queue applicants were given no rights by virtue of the FIT tariff."⁵²

Meridian, Tritium3, Blue Planet, and HSEA raise similar concerns, focusing on the Reserve Queue applicant's expectations. Meridian and Tritium3 argue that Step No. 1 would "upset the

⁴⁸HECO's Schedule FIT Tier 1 and Tier 2, (Revised Sheet No. 78A, Effective December 30, 2011), ¶ C (emphasis added); see also HECO's Schedule FIT Tier 3 (Sheet No. 80.1A, Effective December 30, 2011), ¶ C.

⁴⁹CA's Comments at 5.

⁵⁰CA's Comments at 5.

⁵¹CA's Comments at 5.

⁵²CA's Comments at 5.

settled expectations of... FIT project developers, who have a justifiable right to expect that the rules in place at the time of their application would continue to apply to their project as long as the project conforms to those rules."⁵³ Blue Planet states "there was and is an expectation that the program includes two queues, which provides a rational basis for developers and investors to invest, at their own risk, in projects that may possibly advance."⁵⁴ HSEA argues, "even though it is true that a reserve position is no guarantee of a position in the active queue, the general expectation of developers in all queues is that projects will in fact move to the active queue, as evidenced by the substantial preparation involved in submitting an application and having a 'shovel ready' project."⁵⁵

Related to their assertions regarding substantive rights and expectations, the Consumer Advocate, HSEA, Meridian, Tritium3, and DBEDT argue that the Reserve Queue applicants may have invested

⁵³Meridian's Comments on Joint Plan for Queue Administration Pending FIT Reexamination; Certificate of Service, filed on November 12, 2013 (collectively, "Meridian's Comments"), at 5; Tritium3's Comments on Joint Plan for Queue Administration Pending FIT Reexamination; Certificate of Service, filed on November 12, 2013, at 5 (collectively, "Tritium3's Comments").

⁵⁴Blue Planet's Comments at 4.

⁵⁵Hawaii Solar Energy Association's Response to The Hawaiian Electric Companies' and the Independent Observer's Joint Plan for the Administration of the FIT Queues; Certificate of Service, filed on November 12, 2013, at 4 (collectively, "HSEA's Comments"), at 4.

heavily in FIT projects. The Consumer Advocate notes that these applicants have "more than likely [expended] large sums of money in many cases well beyond the application fee"⁵⁶ and that those with projects "near the top of the priority list may have foregone other projects in reliance upon the tariff language that would have placed them on the active queue when additional capacity became available."⁵⁷ HSEA elaborates on the costs that Reserve Queue applicants could have incurred to make their projects "shovel ready," including those associated with securing a site, entering a lease agreement, legal fees, design and engineering, and seeking funding for project costs, including labor, materials, IRS studies, and interconnection upgrades.⁵⁸ Meridian and Tritium3 provide an example whereby a 5 MW Tier 3 FIT project would incur a \$2,500 application fee and a \$75,000 reservation fee.⁵⁹

Meridian argues that "maintaining the projects in the Reserve Queue in many cases likely required other expenditures and commitment of resources."⁶⁰ Tritium3 states "some Reserve Queue

⁵⁶CA's Comments at 5.

⁵⁷CA's Comments at 5-6.

⁵⁸HSEA's Comments at 4.

⁵⁹Meridian's Comments at 4; Tritium3's Comments at 4.

⁶⁰Meridian's Comments at 4.

developers may have expended additional funds to maintain the viability of their projects."⁶¹ DBEDT notes that although the HECO Companies and the IO propose to refund the application and reservation fees to Reserve Queue applicants, "this does not mean the developers that were relying on the ability to participate in the FIT program would not be economically harmed."⁶²

Furthermore, Blue Planet, DBEDT, HREA, Meridian, and Tritium3 argue that Step No. 1 contravenes both Hawaii's clean energy law and policy, and the purpose of the FIT program. Blue Planet states "[f]irst and foremost, terminating reserve queue projects and [sic] will likely decrease the ability of the FIT program to procure renewable energy, to the detriment of utility customers and contrary to Hawaii clean energy law and policy."⁶³ Similarly, DBEDT argues, "the proposal to release all Reserve Queues would serve to foreclose the associated renewable energy from integration into the HECO Companies grids, without any review as to their associated benefits."⁶⁴ HREA, Meridian, and Tritium3 focus more specifically on the goals of the

⁶¹Tritium3's Comments at 4.

⁶²The Department of Business, Economic Development, and Tourism's Comments to Joint Plan for Administration of the FIT Queues; Certificate of Service, filed on November 12, 2013, at 9 (collectively, "DBEDT's Comments").

⁶³Blue Planet's Comments at 3.

⁶⁴DBEDT's Comments at 9.

FIT program, arguing that eliminating the Reserve Queue would inhibit reaching FIT program targets⁶⁵ (i.e., up to 60 MW for HECO and 10 MW each for MECO and HELCO) and result in the underutilization and further delayed implementation of the FIT program.⁶⁶

Blue Planet and HSEA argue that releasing the Reserve Queue would deter future interest in the FIT program. Blue Planet states that "abolishing the reserve queue will alter the FIT program in a manner that is likely to reduce interest and participation in the program by qualified developers and investors, who may perceive this as 'changing the rules in the middle of the game.'"⁶⁷ Similarly, HSEA notes that "[i]t seems that the only reason to eliminate the reserve queue would be to ramp down and phase out the program, which would not serve the interests of the state as we strive to meet our clean energy goals, and would send a signal that Hawaii is not a business friendly state."⁶⁸

⁶⁵Hawaii Renewable Energy Alliance's Joinder to Blue Planet Foundation's Comments on Joint Plan for Queue Administration Pending FIT Reexamination; Certificate of Service, filed on November 12, 2013, at 1 (collectively, "HREA's Comments").

⁶⁶Meridian's Comments at 6; Tritium3's Comments at 6.

⁶⁷Blue Planet's Comments at 3.

⁶⁸HSEA's Comments at 5.

Finally, Blue Planet, Meridian, and Tritium3 argue that eliminating the Reserve Queue could be administratively inefficient. Blue Planet argues that after Reserve Queue applicants are released, and during subsequent FIT program proceedings, "many FIT program steps may be repeated or duplicated, including the resubmission of application materials, payment of deposits, and other administrative actions."⁶⁹ Similarly, Meridian and Tritium3 state that if the Reserve Queue is released, those projects would be "forced to reapply under whatever new incarnation of the FIT program emerges from this Docket," which would "involve unnecessary further paperwork and administrative expense."⁷⁰

Blue Planet suggests that, in the alternative, the commission consider "other potential modifications," such as requiring Tier 2 projects on the Reserve Queue "to demonstrate, or further demonstrate to the satisfaction of the IO, within thirty days, site control and the filing of a building permit application, if either or both of those items is viewed as deficient by the IO."⁷¹

Tritium3 asserts that if the commission elects to release the Reserve Queue, those projects should be given the

⁶⁹Blue Planet's Comments at 5.

⁷⁰Meridian's Comments at 5; Tritium3's Comments at 5.

⁷¹Blue Planet's Comments at 5.

options of either (1) withdrawing and receiving a refund of the application fee and reservation fee payments, or (2) being afforded a right of first offer to enter into the FIT queues if and when a new FIT round is opened.⁷²

3.

Response To Comments On Step No. 1

In response to the Consumer Advocate and Intervenors' comments regarding Step No. 1, the HECO Companies and the IO argue that release of the Reserve Queue applications "is both a reasonable and necessary step to achieving a successful reexamination of the FIT program and to being able to implement the program improvements identified through that process."⁷³

Alternatively, if the commission decides that the Reserve Queue applications should not be released:

the Companies and IO respectfully request that they be allowed to work with the Commission and any interested parties in determining the precise process and requirements for maintaining Reserve Queue applications and moving those applications to the appropriate Active Queue as program capacity allows in a fair and nondiscriminatory fashion.⁷⁴

⁷²Tritium3's Comments at 6.

⁷³HECO Companies and IO's Response at 4.

⁷⁴HECO Companies and IO's Response at 4-5.

The HECO Companies and the IO specifically respond to some of the Consumer Advocate and Intervenors' comments on Step No. 1, asserting that: (1) a position on the Reserve Queue does not guarantee a position on the Active Queue; (2) allowing projects to remain on the Reserve Queue indefinitely will create greater confusion and uncertainty and would not be fair to ratepayers; (3) inconvenience to Reserve Queue applicants who would have to reapply to participate in an updated FIT program is not grounds to handicap the reexamination process; (4) claims that releasing the Reserve Queue will reduce FIT program participation in the future are speculative; and (5) integration of Active Queue projects is ongoing.⁷⁵

The HECO Companies and the IO also respond to Tritium3's proposal regarding a right of first offer for Reserve Queue applicants. The HECO Companies and the IO argue that Tritium3's proposed options would "create confusion and uncertainty and could interfere with the implementation of any new FIT program."⁷⁶

⁷⁵HECO Companies and IO's Response at 9-16.

⁷⁶HECO Companies and IO's Response at 13. The HECO Companies and the IO elaborate:

How long would the existing FIT program have to remain open to maintain the option of allowing a developer to 'withdraw' its application and receive a refund of its application and reservation fees - separate and apart from what the Joint Plan has proposed? How would the proposed 'right of

B.

Step No. 2: Categorize Applications In The Active Queue

1.

Description Of Step No. 2

In Step No. 2, the HECO Companies and the IO propose categorizing applications in the Active Queue based on the progress made towards project completion.⁷⁷ To illustrate these categories, and the corresponding action deadlines discussed in Section II.C, below, the Joint Plan includes the following table, titled "Table 1" in the Joint Plan:⁷⁸

first offer' work? Would it be fair to stake holders that participate in the reexamination process if any program capacity made available to new program participants is fully subscribed by legacy Reserve Queue projects exercising this option? How would such an option square with a decision by the Commission that pricing under a new FIT program should be determined through a competitive bidding process?

Id.

⁷⁷Joint Plan at 4.

⁷⁸Joint Plan at 5-6, Table 1.

IRS Status	Service Request Status	Action
IRS Required, Payment Received, Study Underway (Appendix B, Table 1)	Service Request Submitted, Payment Received For Firm Cost Estimate	Execute FIT agreement when costs are available to complete Appendix B-2 or Appendix G
IRS not required (Appendix B, Table 2)	Service Request Submitted, Payment Received For Firm Cost Estimate	Execute FIT agreement when costs are available to complete Appendix B-2 or Appendix G
IRS Required, No Payment Received (Appendix B, Table 3)		Applicant must agree to proceed within 15 business days of notification that an IRS is required; IRS Letter Agreement detailing cost and scope of the study, and any other documentation required for the IRS must be returned, with payment, within 15 business days of receipt of the IRS Letter Agreement
IRS Required, Additional Information Requested From Applicant (Appendix B, Table 4)		Applicant must agree to proceed within 15 business days of notification that an IRS is required; IRS Letter Agreement detailing cost and scope of the study, and any other documentation required for the IRS must be returned, with payment and the requested documentation within 15 business days of receipt of the IRS letter agreement

<p>IRS Required, Payment Received, Study or Resulting Requirements Underway (Appendix B, Table 5)</p>	<p>Service Request Not Submitted or No Payment Made For Cost Estimates</p>	<p>Applicant must submit a service request within 10 business days of the applicant's receipt of the IRS study results including the scope and cost of any required upgrades. The Rough cost estimate must be paid within 15 business days of the Applicant's receipt of the estimate; the Firm cost estimate must be paid within 15 business days of the Applicant's receipt of the estimate.</p>
<p>IRS Not Required (Appendix B, Table 6)</p>	<p>Service Request Not Submitted or No Payment Made For Cost Estimates</p>	<p>Applicant must submit a service request within 10 business days. The Rough cost estimate must be paid within 15 business days of the applicant's receipt of the estimate; the Firm cost estimate must be paid within 15 business days of the Applicant's receipt of the estimate.</p>
<p>Technical Review Incomplete (Appendix B, Table 7)</p>	<p>Technical review incomplete</p>	<p>Insufficient information to begin technical review, applicant will have 10 business days to provide all of the information required to proceed with the technical review and establish site control.</p>

2.

Comments On Step No. 2

Neither the Consumer Advocate nor any Intervenors stating a position on Step No. 2 oppose the proposed categorization in concept. All commenters on Step No. 2, however, express concerns about, or recommend modifications to, this step.

Meridian (joined by Scatec) is "not opposed to the establishment of reasonable milestones that projects must achieve in the pre-PPA execution period,"⁷⁹ but requests that the commission "modify the categories listed [in Table 1] of the Joint Plan to clarify that the 'Service Request' column and related actions do not apply to certain Tier 3 projects, or to otherwise correct the category descriptions to match the numbers in Appendix B-1 and to conform to industry practice."⁸⁰ To support this proposal, Meridian argues that unlike small rooftop PV projects, submitting a "Service Request" is "neither an early milestone nor a significant milestone for Tier 3 projects."⁸¹

Similarly, Tritium3 is "not opposed to the establishment of reasonable milestones that projects must achieve in the pre-PPA execution period,"⁸² but submits that these milestones should be clarified and modified. Specifically, "new structure-mounted projects should not be expected to be 'shovel-ready' at the time of application,"⁸³ and "'Service Request' status categorization

⁷⁹Meridian's Comments at 6.

⁸⁰Meridian's Comments at 8.

⁸¹Meridian's Comments at 7.

⁸²Tritium3's Comments at 7.

⁸³Tritium3's Comments at 7.

criteria and related required actions should not apply to all FIT projects."⁸⁴

Blue Planet "does not object to and generally supports the proposed 'categorization' of FIT projects as proposed in this step - assuming this categorization also facilitates timely completion of FIT projects."⁸⁵ Blue Planet further suggests that "implementation of Step 2 would ideally be accompanied by modifications to Rule 14H... ." ⁸⁶

HSEA states "[a]lthough it make [sic] sense to categorize projects based on their progress with the IRS, payment, and execution of the FIT agreement, HSEA would like more clarity as to how the information will be used."⁸⁷ For instance, HSEA would like to know whether an applicant who fails to pay for the rough estimate within the stated deadline will be ejected from the queue; whether the developer would be given a chance to appeal a decision; and whether a project will be disadvantaged even if the delay is out of its control.⁸⁸

⁸⁴Tritium3's Comments at 8.

⁸⁵Blue Planet's Comments at 6.

⁸⁶Blue Planet's Comments at 6.

⁸⁷HSEA's Comments at 5.

⁸⁸HSEA's Comments at 5.

Response To Comments On Step No. 2

The HECO Companies and the IO respond to Meridian and Blue Planet's comments on Step No. 2.

With respect to Meridian's comments, the HECO Companies and the IO agree with Meridian that "most Tier 3 projects will not need a service request since the IRS for those sizes of projects will identify the necessary upgrades."⁸⁹

[T]he Companies and IO can clarify that if a service upgrade is required for a particular project, then the pre-execution milestones regarding the service request would apply. If no service upgrade is required (as for the case for most Tier 3 projects) then the Companies and IO would categorize the application as if the service request milestones had been met.⁹⁰

With respect to Blue Planet's suggestion that implementing Step No. 2 should be accompanied by modifications to Rule 14H,⁹¹ the HECO Companies and the IO state that this issue "could be better addressed as a part of any docket examining distributed generation interconnection standards rather than as a part of a modified Joint Plan for administering the FIT queues."⁹²

⁸⁹HECO Companies and IO's Response at 19-20.

⁹⁰HECO Companies and IO's Response at 20.

⁹¹Blue Planet's Comments at 21.

⁹²HECO Companies and IO's Response at 21.

C.

Step No. 3: Establish Deadlines
To Cure Incomplete Applications In The Active Queue

1.

Description Of Step No. 3

In Step No. 3, the HECO Companies and the IO propose deadlines for curing incomplete applications in the Active Queue.⁹³ This step is intended to address the commission's concerns that a lack of milestones has allowed projects to remain in the FIT queues without any proof of actual development efforts.⁹⁴

Specifically, the HECO Companies and the IO propose that the former will issue to applicants in the Active Queue written notice of all documentation and actions required to prove the project is shovel-ready and progressing toward completion within the FIT timeframes, i.e., within twelve (12) months of FIT Agreement execution for Tier 1 projects, and within eighteen (18) months of FIT Agreement execution for Tier 2 and Tier 3 Projects.⁹⁵ Applicants in the Active Queue who fail to comply with such notice within ten (10) business days, or who fail to submit payment, where required, within fifteen (15) business days, shall be subject to removal from the

⁹³Joint Plan at 7.

⁹⁴Joint Plan at 7; Order No. 31424 at 10.

⁹⁵Joint Plan at 7.

FIT queue.⁹⁶ All notifications to applicants will be provided via the HECOFITIO website.⁹⁷

2.

Comments On Step No. 3

Neither the Consumer Advocate nor any Intervenors stating a position on Step No. 3 oppose the establishment of deadlines. All commenters on Step No. 3, however, raise concerns about, or recommend extending, the 10-business day deadlines proposed in this step.

The Consumer Advocate "questions whether the proposed 10 day deadline is reasonable," and asserts that the deadline "may be overly burdensome."⁹⁸ The Consumer Advocate recommends a "slightly longer period of time."⁹⁹

DBEDT "understands the need for verification that the applicant is making progress towards completion of the project," but asserts that "a 10-business day deadline to provide an unlimited set of documents is overly onerous."¹⁰⁰

⁹⁶Joint Plan at 7-8.

⁹⁷Joint Plan at 8.

⁹⁸CA's comments at 6.

⁹⁹CA's comments at 6.

¹⁰⁰DBEDT's Comments at 10.

Blue Planet "does not object to and generally supports the modifications proposed in this step,"¹⁰¹ but argues that the 10-business day deadline "may not be sufficient time for applicants to contract for and develop these documents."¹⁰² Blue Planet instead recommends a thirty (30) day period to provide required documents.¹⁰³ HREA adds that "the most important deadlines in our opinion are the ones leading up to the execution of the FIT agreement."¹⁰⁴

HSEA "supports the proposal that the Commission establish deadlines to cure incomplete applications on the active queue,"¹⁰⁵ but is "concerned that the proposed deadline for action on additional requirements is not long enough to reasonably allow projects to comply with new rules."¹⁰⁶ According to HSEA, the 10-business day deadline "may be unfair and unreasonable, especially if the project has languished while waiting for IRS determination and costs."¹⁰⁷ For Tier 3 projects, HSEA further

¹⁰¹Blue Planet's Comments at 7.

¹⁰²Blue Planet's Comments at 7.

¹⁰³Blue Planet's Comments at 7.

¹⁰⁴HREA's Comments at 1.

¹⁰⁵HSEA's Comments at 5.

¹⁰⁶HSEA's Comments at 6.

¹⁰⁷HSEA's Comments at 6.

proposes that the building permit be submitted along with the FIT agreement, rather than the FIT application, because "paying for a building permit before cost of interconnection is not equitable, especially when the uncertainty surrounding the current interconnection costs is considered."¹⁰⁸

In addition, the Consumer Advocate, DBEDT, and HREA take issue with the documentation requirements in this step. Specifically, the Consumer Advocate supports Step No. 2, but recommends "the establishment of definitive documentation..."¹⁰⁹ DBEDT argues Table 1 is "vague as to the specific actions that are required of the applicants" and is "concerned with the open-ended and overly broad proposal in the Joint Plan for the type of documentation that the HECO Companies may require from applicants in the Active Queue."¹¹⁰ HREA adds that "it is not clear us [sic] what the real thresholds are for remaining in the program."¹¹¹

¹⁰⁸HSEA's Comments at 5.

¹⁰⁹CA's comments at 6.

¹¹⁰DBEDT's Comments at 10.

¹¹¹HREA's Comments at 1.

Response To Comments On Step No. 3

The HECO Companies and the IO respond that the proposed deadlines are "based on past experience with FIT Applicants," and that "if the conforming documents cannot be submitted within the 10 day period, then the Applicant will probably not be submitting any documentation."¹¹² The HECO Companies and the IO further assert:

10 days is a reasonable period of time for these projects, which have been on the Active Queue for some time and fully [sic] aware of the associated requirements, to submit their documentation. The Companies and IO also submit that such a timeframe is consistent with a desire to expeditiously evaluate and process these applications so that the first iteration of the FIT program may be concluded in a timely fashion consistent with allowing the second iteration resulting from the reexamination process, to begin.¹¹³

The HECO Companies and the IO do not respond to the Consumer Advocate, DBEDT, and HREA's concerns that the documentation requirements are vague and open-ended.

¹¹²HECO Companies and IO's Response at 22.

¹¹³HECO Companies and IO's Response at 22.

D.

Step No. 4: Remove Incomplete Applications
From The Active Queue

1.

Description Of Step No. 4

In Step No. 4, the HECO Companies and the IO propose that applicants who fail to provide all of the required documentation or take the appropriate action or actions within the timeframe specified in Step No. 2 shall be removed from the Active Queue and will forfeit their Reservation Fees. Removal of projects from the Active Queue would be subject to concurrence of both the HECO Companies and the IO.¹¹⁴

2.

Comments On Step No. 4

DBEDT appears to oppose this step based on its argument that the requirements contained in Step No. 2 are vague.

[T]he proposal to remove the applicant's project from the FIT queue at any point prior to being placed in-service for failure to provide the requested documentation and/or evidence of the required action within the permitted timeframe is also not consistent with State policies for advancing the deployment of renewable energy in Hawaii. The 'required action'...could be any new

¹¹⁴Joint Plan at 8.

requirement that the HECO Companies may impose.¹¹⁵

Blue Planet, Tritium3, and HSEA do not object to Step No. 4, but provide additional comments and pose modifications to this step.

Blue Planet "does not object to and generally supports the modifications proposed in this step, with the caveat that all reasonable efforts have first been made to remedy incomplete applications."¹¹⁶ Blue Planet further argues that "[a] reserve queue, with projects available to advance to the active queue as appropriate, should remain in place."¹¹⁷

Tritium3 submits that projects that miss the proposed deadlines "should be afforded a reasonable cure period."¹¹⁸ Specifically, Tritium3 proposes that Step No. 4 of the Joint Plan be modified to read as follows:

If an Applicant fails to provide all of the required documentation or take the appropriate action(s) within the timeframe specified in [Step No. 3], Company shall notify such Applicant. The Applicant shall have five (5) Business Days to cure such failure.¹¹⁹

¹¹⁵DBEDT's Comments at 10.

¹¹⁶Blue Planet's Comments at 7.

¹¹⁷Blue Planet's Comments at 7.

¹¹⁸Tritium3's Comments at 8.

¹¹⁹Tritium3's Comments at 8-9.

HSEA supports Step No. 4, "assuming the developer is given proper and timely notice, and both the HECO Companies and the IO concur on the removal."¹²⁰

3.

Response To Comments On Step No. 4

In response to DBEDT's position that removing applications for failure to provide the requested documentation and/or evidence of the required action within the permitted timeframe is "not consistent with State policies for advancing the deployment of renewable energy in Hawaii,"¹²¹ the HECO Companies and the IO counter that such removal actually "make[s] room for other more viable renewable energy capacity" and note that:

by closing out the existing FIT program, customers as well as stakeholders will be able to receive the anticipated benefits that will come from program reexamination and incorporation and implementation of best practices, new technologies, improved terms and conditions and the likely lower pricing that have developed since the inception of the FIT program some four years ago.¹²²

¹²⁰HSEA's Comments at 6.

¹²¹DBEDT's Comments at 10.

¹²²HECO Companies and IO's Response at 20.

The HECO Companies and the IO do not appear to respond to Blue Planet's comment regarding the advancement of Reserve Queue projects or Tritium3's comment regarding a cure period.

The HECO Companies and the IO respond specifically to HSEA's comments, stating, "[t]he Companies and IO confirm that proper and timely notice of such activity will be provided through the FIT website and that the Companies and IO will consult and concur upon any decision to remove a project from the queue."¹²³

E.

Step No. 5: Establish Revised Guaranteed Commercial Operation Date for Each Application

1.

Description of Step No. 5

Step No. 5 proposes timeframes, measured from the project Start Date, under which FIT projects must become commercially operable.¹²⁴ The HECO Companies and the IO agree that the Start Date for a FIT project shall be the date of HECO's execution of the FIT Agreement.¹²⁵ The HECO Companies and the IO, however, submit separate proposals regarding the commercial operating date ("COD").

¹²³HECO Companies and IO's Response at 23.

¹²⁴Joint Plan at 8.

¹²⁵Joint Plan at 8.

The IO recommends that the allowed time between the Start Date and the COD should equal the amount of time between the application date and the COD asserted by the applicant.¹²⁶ For example, "[i]f an applicant applied to the FIT program on January 1, 2012, and entered a completion date of June 30, 2012, they would have 6 months from the Start Date to complete the project."¹²⁷

The HECO Companies, on the other hand, propose that the time allowed between the Start Date and the COD should remain consistent with the Schedule FIT tariff, i.e., Tier 1 projects must be completed within twelve (12) months of the Start Date, and Tier 2 and Tier 3 projects must be completed within eighteen (18) months of the Start Date.¹²⁸

2.

Comments On Step No. 5

The Consumer Advocate and all Intervenors stating a position on Step No. 5 support the HECO Companies' proposed COD.

The Consumer Advocate states:

It is not clear why a revised date needs to be established for each application. The Consumer Advocate recognizes that there

¹²⁶Joint Plan at 8.

¹²⁷Joint Plan at 8.

¹²⁸Joint Plan at 9.

may be projects that need relief from certain deadlines for reasons that were beyond the control of the applicant, but for applications that are moving with sufficient timeliness, the existing deadline should continue to apply.¹²⁹

Blue Planet asserts that the HECO Companies' proposed COD is "reasonable and consistent with the FIT tariff."¹³⁰ Blue Planet further suggests that "for smaller FIT projects, it may be appropriate for the IO's duties (possibly assisted by a technical consultant) to include a reasonableness review of the HECO Companies' interconnection cost estimates and project management costs."¹³¹

HSEA "sees no benefit in going with a shorter COD (which may be the case with the IO's option) should that result in getting a project ejected from the queue. Construction projects frequently encounter delays which are out of the control of the developer."¹³²

¹²⁹CA's Comments at 6.

¹³⁰Blue Planet's Comments at 7.

¹³¹Blue Planet's Comments at 8.

¹³²HSEA's Comments at 6.

Solar Hub supports the HECO Companies' recommendation for establishing the revised commercial operation date for each FIT application.¹³³

DEP "strongly supports the [HECO Companies'] position regarding the meaning of the 'Start Date' and the completion period for Tier 2 and 3 projects within eighteen (18) months of the Start Date."¹³⁴ DEP argues that the IO's proposal is "not fair or practical" because: (1) "[t]he development landscape is fundamentally different today than it was at the time of the initial application"; (2) "[p]rojected completion dates at the time of application were based on incomplete information because interconnection studies, utility cost and requirement review and government permitting evaluation were not complete"; and (3) "[t]he queue was initially distorted by some applicants who passed unrealistic completion dates to gain superior queue position."¹³⁵ DEP makes further recommendations for clarifying the Start Date, taking into account Rule 14H.¹³⁶

¹³³Solar Hub Utilities LLC's Comments on the Joint Plan; Certificate of Service, filed on November 12, 2013, at 1 (collectively, "Solar Hub's Comments").

¹³⁴Distributed Energy Partners LLC's Comments Regarding the Joint Plan for Queue Administration Pending FIT Reexamination; Certificate of Service, filed on November 12, 2013, at 2 (collectively, "DEP's Comments").

¹³⁵DEP's Comments at 2.

¹³⁶DEP's Comments at 3.

Tritium3 submits that if the commission approves the new milestones proposed in the Joint Plan, as discussed in Section II.F, below, "Tritium3 prefers the HECO Companies' proposed milestones to the IO's proposed milestones, both because the HECO Companies' milestones are consistent with the existing milestones and because they provide a more reasonable framework for ensuring the completion of FIT projects."¹³⁷

Finally, Tritium3 and Meridian argue that the Start Date should be the later of the execution date and the date of the issuance of any required commission approval because "certain FIT projects require Commission approval of 46 kV lines."¹³⁸

3.

Response To Comments On Step No. 5

In response to comments on Step No. 5, the HECO Companies note that the Consumer Advocate, Blue Planet, DEP, and HSEA support the HECO Companies' recommendation.¹³⁹

¹³⁷Tritium3's Comments at 10 n.14.

¹³⁸Tritium3's Comments at 14; Meridian's Comments at 11.

¹³⁹HECO's and IO's Response at 23-24.

F.

Step No. 6(1): Establish Development Milestones
For Each Project After Execution Of The FIT Agreement

1.

Description of Step No. 6(1)

In Step No. 6(1),¹⁴⁰ the HECO Companies and the IO propose development milestones for FIT projects to ensure that "projects are, in fact, shovel ready and proceeding in accordance with actual development efforts."¹⁴¹ Furthermore, "[t]he IO and the Companies agree that milestones should be established and applied without exception unless an extension is granted in accordance with this Joint Plan."¹⁴² The milestones are detailed in the following tables, excerpted from the Joint Plan.¹⁴³

¹⁴⁰It appears that the Joint Plan numbers both this step and the following step as "Step No. 6." For purposes of clarity, this Decision and Order numbers the former "Step No. 6" as "Step No. 6(1)" and the latter "Step No. 6" as "Step No. 6(2)."

¹⁴¹Joint Plan at 9.

¹⁴²Joint Plan at 9.

¹⁴³Joint Plan at 9-10.

Tier 1 and Tier 2 Milestones

Milestone	Schedule (BD = Business Day)
Company Executes FIT Agreement and Notifies Applicant	START DATE
Posts hard copy building permit to establish that the appropriate agency has reviewed the permit application and issued a valid building permit for the project	START DATE + 10 BD
Applicant posts P.O. from supplier for Appendix B-1 Equipment or other documentation demonstrating that the equipment for the project has been purchased	START DATE + 30 BD
Applicant posts photographic proof that development is progressing along with a sworn affidavit verifying the date and contents of such photographs	START DATE + 3 months START DATE + 6 months START DATE + 9 months
Guaranteed Commercial Operation Date for Tier 1 and Tier 2 Projects	As set forth in Sections D.1 or D.2 above as the Commission may determine

Tier 3 Milestones

Milestone	Schedule (BD = Business Day)
Company Executes FIT Agreement and Notifies Applicant	START DATE
Posts hard copy building permit application or permit to establish that the appropriate agency has reviewed the permit application and issued a valid building permit for the project	START DATE + 30 BD

Applicant posts P.O. from supplier for Attachment B & G Equipment or other documentation demonstrating that the equipment for the project has been purchased	START DATE + 60 BD
Applicant posts photographic proof that development is progressing along with a sworn affidavit verifying the date and contents of such photographs	START DATE + 3 months START DATE + 6 months START DATE + 9 months
Guaranteed Commercial Operation Date	As set forth in Sections D.1 or D.2 above as the Commission may determine

2.

Comments On Step No. 6(1)

The Consumer Advocate and HSEA support Step No. 6(1). The Consumer Advocate states that this step is "[c]onsistent with the Consumer Advocate's support of encouraging FIT projects proceeding on a timely basis..."¹⁴⁴ HSEA "supports the establishment, monitoring, and enforcement of development milestones, so long as the developers are given due notice, and the timeframes are reasonable."¹⁴⁵

Blue Planet (joined by HREA) is "concerned that the proposed actions in this step may be administratively burdensome for all parties - including FIT participants,

¹⁴⁴CA's Comments at 7.

¹⁴⁵HSEA's Comments at 6.

the IO and the utilities..."¹⁴⁶ Instead, Blue Planet proposes that milestones should be limited to: (1) start of construction; (2) system acceptance; (3) system energization; and (4) commercial operation.¹⁴⁷ In addition, any required progress reports "should be limited to [a] bimonthly, one-page, electronically completed and filed standard form which briefly reports on the project's current status, percentage of construction completed, and expected commercial operation date."¹⁴⁸ HREA adds:

the most important deadlines in our opinion are those leading up to the execution of the FIT agreement. After that, a developer is highly motivated to move the [COD] given the amount of investment already made by the developer up to that point, and the total amount of funds at stake if the project does not make the COD.¹⁴⁹

Meridian submits that the commission "should not approve the new post-execution milestones and related procedures proposed by the Plan Proponents because the FIT PPA forms approved by the Commission already contain adequate post-execution milestones."¹⁵⁰

Meridian argues:

It is unnecessary and inappropriate to replace these Commission-approved contractual

¹⁴⁶Blue Planet's Comments at 8.

¹⁴⁷Blue Planet's Comments at 8.

¹⁴⁸Blue Planet's Comments at 8.

¹⁴⁹HREA's Comments at 1-2.

¹⁵⁰Meridian's Comments at 9.

milestone provisions with new milestones. The existing contract forms have been vetted through a PUC docket and developers have relied upon the language to make business decisions for almost two years. Specifically, FIT project developers have relied on the contract forms in electing to participate in the FIT program and in deciding to dedicate and expend resources for their projects. Upsetting these settled expectations by retroactively replacing the milestone provisions in these contract forms with new milestones would be highly inappropriate and of questionable legality.¹⁵¹

Meridian further asserts that the proposed milestones in Step No. 6(1) "do not appear to be as well-thought out as the existing milestones in the FIT PPA forms,"¹⁵² noting that "[t]he deadlines for the building permit and equipment ordering milestones are unrealistic as applied to Tier 3 projects."¹⁵³

Tritium3 does not support the proposed milestones for the same reasons that Meridian does not support them.¹⁵⁴

DEP does not support the proposed milestones and argues that they are detrimental because: (1) FIT projects are not one-size fits all;¹⁵⁵ (2) the HECO Companies' IRS review process created a "development traffic jam," such that developers with

¹⁵¹Meridian's Comments at 10-11.

¹⁵²Meridian's Comments at 11.

¹⁵³Meridian's Comments at 11.

¹⁵⁴Tritium3's Comments at 10-15.

¹⁵⁵DEP's Comments at 4.

multiple projects with the same Start Date will be unable to follow an identical schedule due to the limited amount of work each specialized crew can perform;¹⁵⁶ and (3) the HECO Companies are incapable of performing the role of construction manager.¹⁵⁷ DEP further recommends that, in light of federal tax credit expiration at the end of 2016, the HECO Companies be required to complete infrastructure work "by the earlier of (1) 18-months prior to the end of 2016 or (2) 90 days following an applicant's completion of a Tier 2 project or 180 days following an applicant's completion of a Tier 3 project."¹⁵⁸

3.

Response To Comments On Step No. 6(1)

In response to Blue Planet's proposed more general milestones, the HECO Companies and the IO respond that the Joint Plan's "more detailed proposed milestones will go further to accomplish the goal of ensuring that projects are moving forward

¹⁵⁶DEP's Comments at 5.

¹⁵⁷DEP's Comments at 5; the HECO Companies "do not have the knowledge or staff resources to fairly and promptly evaluate whether the 'photographic proof' and 'sworn affidavit' are sufficient to meet the ambiguous milestones"; and "fundamentally, there is no purpose to construction oversight by the Companies except to the limited extent necessary to coordinate with developers regarding the installation of grid upgrades and other Company interconnection requirements, if any..."). Id. at 5-8.

¹⁵⁸DEP's Comments at 8-9.

in timely manner. The Companies and IO agree with Blue Planet's suggestion that 'any milestones should be clear, straightforward and unambiguous, with little discretion afforded to the HECO Companies or the IO.'¹⁵⁹

In response to Meridian and Tritium3's comments that the milestone provisions contained in existing Tier 3 FIT Agreements should not be replaced with new milestones, the HECO Companies and the IO "are willing to agree that solely for Tier 3 FIT projects in the Active Queue, the existing milestones in the Tier 3 FIT Agreement should control," provided that these projects are subject to the existing Tier 3 Tariff and therefore "must continue to be placed in-service 18 months from the execution of the FIT Agreement."¹⁶⁰

In response to DEP's comments, the HECO Companies and the IO assert:

[T]he Companies have no interest in and have not proposed to act as the construction manager for any project. The milestones which have been proposed are simply to provide a mechanism for the Companies and IO to determine if projects on the Active Queue are indeed moving forward and not unduly occupying program capacity for projects which developers have no real intention of bringing to commercial operation. With regard to the second claim the use of photographic evidence

¹⁵⁹HECO Companies and IO's Response at 25 (quoting Blue Planet Comments at 8).

¹⁶⁰HECO Companies and IO's Response at 29.

to confirm project status is a common practice in the construction industry and more also in the context of construction in the energy sector.¹⁶¹

G.

Step No. 6(2): Monitor And Enforce Development Milestones

1.

Description Of Step No. 6(2)

In Step No. 6(2),¹⁶² the HECO Companies and the IO propose that the HECO Companies will monitor the projects in the Active Queue for compliance with the milestones detailed in Step No. 6(1) of the Joint Plan and confer with the IO prior to taking any action. The applicant is responsible for ensuring that the milestones are met and the appropriate documentation is uploaded to the HECOFITIO website within the required timeframes.¹⁶³

¹⁶¹HECO Companies and IO's Response at 25-26.

¹⁶²It appears that the Joint Plan numbers both this step and the preceding step as "Step No. 6." For purposes of clarity, this Decision and Order numbers the former "Step No. 6" as "Step No. 6(1)" and the latter "Step No. 6" as "Step No. 6(2)."

¹⁶³Joint Plan at 10.

Comments On Step No. 6(2)

The Consumer Advocate and HSEA support Step No. 6(2). The Consumer Advocate states that this step is "[c]onsistent with [the Consumer Advocate's] support of encouraging FIT projects proceeding on a timely basis..."¹⁶⁴ HSEA "supports the establishment, monitoring, and enforcement of development milestones, so long as the developers are given due notice, and the timeframes are reasonable."¹⁶⁵

Blue Planet "does not object to and generally supports the modifications proposed in this step," but proposes that "a reserve queue, with projects available to advance to the active queue as appropriate, should remain in place."¹⁶⁶

Meridian and Tritium3, do not support the development milestones,¹⁶⁷ and therefore do not support monitoring or enforcing them.¹⁶⁸

¹⁶⁴CA's Comments at 7.

¹⁶⁵HSEA's Comments at 6.

¹⁶⁶Blue Planet's Comments at 9.

¹⁶⁷Meridian's Comments at 8-12; Tritium3's Comments at 9-15.

¹⁶⁸Meridian's Comments at 12; Tritium3's Comments at 15.

3.

Response To Comments On Step No. 6(2)

The HECO Companies and the IO respond to comments on Step No. 6(2) by citing the Consumer Advocate, Blue Planet, and HSEA's support for this step.¹⁶⁹

H.

Step No. 7: Remove Projects From Active Queue
That Do Not Meet Development Milestones

1.

Description Of Step No. 7

In Step No. 7, the HECO Companies and the IO propose that, with the concurrence of the IO, the HECO Companies will notify each Active Queue applicant when a milestone has been missed. After applicants are advised of the status of their applications, they will be allowed to provide proof that the applicant has completed the milestone and provided the requisite confirmation before the respective milestone deadline, and that the determination of HECO and the IO was in error, provided the proof is proffered within five (5) business days. If no response is received or the proof is deemed insufficient, the application

¹⁶⁹HECO Companies and IO's Response at 26.

will be removed from the active Queue and the reservation fee will be forfeited.¹⁷⁰

2.

Comments On Step No. 7

The Consumer Advocate contends that the Joint Plan should be revised:

to make clear what would happen to projects that were removed from the active queue as well as how reserve queue projects might be elevated to the Active queue. The Consumer Advocate recommends that projects to be removed from the active queue should not be allowed to move to the reserve queue.¹⁷¹

Blue Planet states that it "does not object to and generally supports the modifications proposed in this step. A reserve queue, with projects available to advance to the active queue as appropriate, should remain in place."¹⁷²

HSEA supports this step, but "does not agree that either the Companies or the IO would have the power to unilaterally remove a project from the active queue... [and] is concerned that... developers would have no right to appeal a decision to remove them from the queue."¹⁷³

¹⁷⁰Joint Plan at 11.

¹⁷¹CA's Comments at 7.

¹⁷²Blue Planet's Comments at 9.

¹⁷³HSEA's Comments at 6-7.

Meridian does not support removing projects from the Active Queue that do not meet these milestones.¹⁷⁴

The procedure that is triggered when a project misses a milestone is not reasonable because it: (a) fails to provide any cure period; (b) fails to recognize that some projects may be delayed by factors that are under the HECO Companies' or the government's control or are otherwise beyond the project's control; (c) inappropriately gives the HECO Companies "sole discretion" over whether to grant an extension, rather than requiring the HECO Companies' decision to be guided by relevant factors or subject to a requirement of reasonableness; and (d) fails to recognize that it is inconsistent with the FIT program's goals to remove a worthy and valuable FIT project where the project's developer is using diligent and commercially reasonable efforts to complete such project.¹⁷⁵

Tritium3 opposes Step No. 7 for the same reasons that Meridian opposes it.¹⁷⁶

3.

Response To Comments On Step No. 7

In its response to comments on Step No. 7, the HECO Companies and the IO cite Blue Planet and HSEA's support for this step.¹⁷⁷

¹⁷⁴Meridian's Comments at 12.

¹⁷⁵Meridian's Comments at 12.

¹⁷⁶Tritium3's Comments at 14-15.

¹⁷⁷HECO Companies and IO's Response at 26.

I.

Extensions For Good Cause .

1.

Description Of Extensions For Good Cause

In the Joint Plan, the HECO Companies and the IO propose a procedure for granting extensions when "extraordinary circumstances [] may cause an Applicant to miss a development milestone or delay the completion of a project within the required timeframes."¹⁷⁸ The HECO Companies and the IO propose that "reasonable extensions may be granted, at the sole discretion of the Company with concurrence of the IO," for such delays.¹⁷⁹ If either the HECO Companies or the IO fail to agree to a requested extension, the project will be removed from the Active Queue.¹⁸⁰ All requests for extensions must be made at the time of the event that necessitated the need for an extension.¹⁸¹

¹⁷⁸Joint Plan at 7.

¹⁷⁹Joint Plan at 7.

¹⁸⁰Joint Plan at 7.

¹⁸¹Joint Plan at 7.

Comments On Extensions For Good Cause

The Consumer Advocate, DBEDT, and HSEA take issue with the HECO Companies' and the IO's authority to unilaterally reject an extension.

The Consumer Advocate argues, "[t]he Joint Plan proposes to allow the HECO Companies to have sole discretion with the concurrence of the IO over any decision to grant an applicant an extension to complete its project. The HECO Companies should not be given such broad discretion."¹⁸² The Consumer Advocate instead recommends that:

[A]ny grant or denial of an extension by the HECO Companies with the concurrence of the IO must be filed with and acted upon by the Commission within five (5) business days. If the Commission takes no action within the five business days, then the HECO Companies' decision shall be deemed to be accepted and approved of by the Commission.¹⁸³

DBEDT argues that the HECO Companies' proposal to retain "sole discretion," with the concurrence of the IO, to determine whether an extension may be granted is "too harsh and overly broad, providing the HECO Companies too much discretion regarding the FIT process."¹⁸⁴

¹⁸²CA's Comments at 7.

¹⁸³CA's Comments at 7.

¹⁸⁴DBEDT's Comments at 10 (citing Joint Plan at 10).

HSEA proposes that "when considering an extension for good cause, both the Companies and the IO must agree on the removal" and that "a developer may appeal a joint decision not to grant an extension due to good cause before the Commission."¹⁸⁵

Blue Planet states that it affirms its support for FIT program queuing procedures that allow time extensions based not only on unforeseen events but also on the failure of the HECO Companies to timely comply with interconnection requirements under Rule 14H, including the failure to timely complete interconnection studies, make system upgrades, perform and observe acceptance tests, and set meters. Under the HECO Companies' model power purchase agreement, for example, interconnection to the 46 kV sub-transmission system can require up to two and half years. Such timeframes are inconsistent with a robust FIT program.¹⁸⁶

3.

Response To Comments On Extensions For Good Cause

With respect to the Consumer Advocate's proposal that decisions on extensions must be filed with and acted on by the commission, "[t]he Companies and IO do not expressly object to this proposal by the Consumer Advocate but believe that it would unduly add complexity and potentially an administrative burden to

¹⁸⁵HSEA's Comments at 7.

¹⁸⁶Blue Planet's Comments at 7-8.

a process that should be as streamlined and expedited as possible."¹⁸⁷ The HECO Companies and the IO further note:

[T]he developer always maintains the rights provided by the Commission's administrative rules including the right to submit either an informal or formal complaint to the Commission. The Companies and IO do not agree that a separate and independent appeals process should be adopted by the Commission as this would be inconsistent with the goal of being able to quickly move shovel ready projects on the Active Queue forward and also inconsistent with the goal of bringing the existing FIT program to a conclusion while making room for the new FIT program to be developed through the Commission's reexamination process.¹⁸⁸

In response to DBEDT and HSEA's concerns regarding the HECO Companies' and the IO's authority to unilaterally reject an extension, the HECO Companies and the IO again state: "[t]he Companies and IO agree that decisions with regard to requests for extensions of time will be determined with the concurrence of the IO."¹⁸⁹

In response to Blue Planet's comments that extensions should be granted for the failure of the HECO Companies to comply with interconnection requirements under Rule 14H, the HECO Companies and the IO "confirm that specifically with

¹⁸⁷HECO Companies and IO's Response at 28.

¹⁸⁸HECO Companies and IO's Response at 28-29.

¹⁸⁹HECO Companies and IO's Response at 28.

regard to requests for extensions of milestones, to the extent that any delays are caused by the Hawaiian Electric Companies that a day for day extension of time for the period of the delay shall be granted to the project to comply with the applicable milestone."¹⁹⁰

III.

Commission Authority

Hawaii Revised Statutes ("HRS") § 269-7 states, in relevant part:

Investigative powers. (a) The public utilities commission and each commissioner shall have the power to examine the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, the value of its physical property, the issuance by it of stocks and bonds, and the disposition of the proceeds thereof, the amount and disposition of its income, and all its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable state and federal laws and with the provisions of its franchise, charter, and articles of association, if any, its classifications, rules, regulations, practices, and service, and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations.

. . . .

¹⁹⁰HECO Companies and IO's Response at 27.

(c) Any investigation may be made by the commission on its own motion, and shall be made when requested by the public utility to be investigated, or by any person upon a sworn written complaint to the commission, setting forth any prima facie cause of complaint. A majority of the commission shall constitute a quorum.¹⁹¹

Similarly, under HRS § 269-6, the commission is vested with "general supervision... over all public utilities."¹⁹²

The commission specifically reserved its authority to reexamine and update the FIT program in several prior orders. In the 2009 FIT Order, the commission directed a reexamination of FITs after two years of implementation:

The commission... will direct a reexamination of the FIT two years after it becomes effective. Also referred to as a FIT Update by the parties, the periodic reexamination may focus on updating tariff pricing, applicable technologies, project sizes, and any other matters relevant to the FIT, including queuing and interconnection procedures, curtailment compensation, and non-rate terms and conditions.¹⁹³

A stated purpose of FIT reexamination is to "respond to suboptimality in the FIT or changes in conditions."¹⁹⁴

¹⁹¹HRS § 269-7 (emphasis added)..

¹⁹²HRS § 269-6(a); see also HRS § 269-15 and HAR § 6-61-71 (also setting forth the commission's investigatory authority).

¹⁹³2009 FIT Order at 98 (emphasis added).

¹⁹⁴2009 FIT Order at 98.

Pursuant to its investigatory powers, and consistent with its reservation of authority to reexamine the FIT program, the commission opened the FIT Reexamination Docket.¹⁹⁵

In the 2013 FIT Order, the commission ordered, among other things:

To avoid confusion and uncertainty regarding the status of FIT projects during the commission's reexamination of the FIT program, the commission directs the HECO Companies and the IO to submit, for the commission's review and approval, a joint plan for administration of the FIT queues while this reexamination proceeding is pending. The joint plan shall be submitted within thirty days of the date of this Order. The joint plan should also adhere to the FIT tariff and commission objectives of moving shovel-ready projects to completion within tariff-prescribed time frames. The parties to this docket, including those who are allowed to intervene, will be allowed to comment on the joint plan, pursuant to subsequent direction by the commission.¹⁹⁶

In sum, pursuant to its general investigative powers under HRS Chapter 269 and its express reservations of authority, the commission will review the Joint Plan, including the proposed updates to queuing procedures¹⁹⁷ to determine whether it, (1) "avoid[s] confusion and uncertainty regarding the status of FIT projects" and (2) adheres to the "objectives of

¹⁹⁵2013 FIT Order.

¹⁹⁶2013 FIT Order at 15-16 (emphasis added).

¹⁹⁷2009 FIT Order at 98.

moving shovel-ready projects to completion within tariff-prescribed timeframes."¹⁹⁸

IV.

Issues

The issues in this docket are:

1. Whether the commission should approve the Joint Plan; and, if so,
2. Whether the commission should condition its approval on modifications to the Joint Plan.

V.

Findings And Conclusions

A.

Commission's Findings And Conclusions On Step No. 1

1. The commission concludes that, subject to certain conditions (discussed below), Step No. 1 in the Joint Plan - releasing applications in the FIT Reserve Queue - will avoid confusion and uncertainty regarding the status of FIT projects, and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of this conclusion, the commission specifically finds as follows.

¹⁹⁸2013 FIT Order at 15-16.

2. With respect to avoiding confusion and uncertainty, the commission finds that:

A. releasing all applications in the Reserve Queue clearly establishes and distinguishes the status of Active Queue and Reserve Queue projects; and

B. maintaining a Reserve Queue while FIT reexamination is underway could complicate and prolong the FIT reexamination process.

3. The commission rejects Tritium3's proposal that Reserve Queue applicants be provided the options of either: (1) withdrawing from the FIT program and receiving a refund of the application fee and reservation fee, or (2) being afforded a right of first offer to enter into the FIT queue when a new FIT round is opened. The commission agrees with the HECO Companies and the IO that granting such options would create "confusion and uncertainty and could interfere with the implementation of any new FIT program."¹⁹⁹

4. The commission finds that application fees should be refunded to all Reserve Queue applicants. Thus, the commission rejects the HECO Companies and the IO's proposal to refund reservation fees to only some of the Reserve Queue applicants, i.e., those who were in the Reserve Queue on or before

¹⁹⁹HECO Companies' and IO's Response at 13.

July 26, 2013.²⁰⁰ Refunding application fees and reservation fees to all Reserve Queue applicants will simplify Step No. 1 and standardize treatment of Reserve Queue applicants.

5. With respect to moving shovel-ready projects to completion, the commission finds as follows:

A. In Order No. 31424, the commission stated that the Joint Plan "should adhere to FIT tariff and commission objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes."²⁰¹

B. The commission did not state in the Order No. 31424 that all shovel-ready projects, including those in the Reserve Queue, should be moved to completion.

C. In this regard, although Reserve Queue applications will be released upon execution of Step No. 1, the Joint Plan will allow for some shovel-ready projects, i.e., those in the Active Queue that meet the requirements of the Joint Plan, to be completed within tariff-prescribed timeframes.

6. The commission rejects Blue Planet's argument that eliminating the Reserve Queue is outside the scope of Order No. 31424.²⁰² Although the commission agrees that

²⁰⁰Joint Plan at 4, n. 2.

²⁰¹2013 FIT Order at 15-16.

²⁰²Blue Planet's Comments at 4.

Order No. 31424 "does not directly discuss... abolishing the reserve queue and terminating all reserve queue projects,"²⁰³ the commission, in its 2009 FIT Order, explicitly reserved authority to focus on updating queuing procedures during FIT reexamination.²⁰⁴ Subsequently, in Order No. 31424, the commission did not terminate or restrict this authority.

7. The commission rejects commenters' arguments that the FIT tariff created substantive rights and settled expectations for Reserve Queue applicants for the following reasons:

A. The Consumer Advocate and HSEA concede, and the commission agrees, that under the FIT tariff, Reserve Queue projects have no guarantee of progressing to the Active Queue.²⁰⁵

B. Although the Consumer Advocate argues that the language in the Schedule FIT Tier 1 and Tier 2, and the Schedule Fit Tier 3, "does explicitly state that a project on the reserve queue will be allowed to participate under Schedule FIT when sufficient capacity becomes available,"²⁰⁶ the commission, in its

²⁰³Blue Planet's Comments at 4.

²⁰⁴See 2009 FIT Order at 98.

²⁰⁵CA's Comments at 5; HSEA's Comments at 4; see also Accion Group, Re: Docket No. 2008-0273, Feed-In Tariff (FIT) Proceeding, Status Report of the Independent Observer, July 29, 2010, at 23 ("[B]eing on the reserve queue does not guarantee a project will move to the active queue.").

²⁰⁶CA's Comments at 5.

2009 FIT Order explicitly reserved authority to update queuing procedures during FIT reexamination.²⁰⁷ Reserve Queue applicants knew or should have known that the Reserve Queue could be eliminated during FIT reexamination.

C. In its 2009 FIT Order, the Commission made clear that the FIT is not a contract, but merely an offer of a contract:

Since the FIT is only an offer of a contract, a contract will still be necessary to bind seller and buyer. If the commission has approved the standard contract, and if the contract between the parties conforms to the standard contract, and if the quantity and price terms are consistent with the commission-approved quantity cap and prices, there is no legal or practical need for the commission to review and approve the actual contract. The utility, however, should still file the contract with the commission for notification purposes. This will significantly streamline the FIT process.²⁰⁸

Reserve Queue applicants that have not entered FIT contracts with any of the HECO Companies thus have no contractual right to continue in the FIT program.

D. Although it is possible that Reserve Queue applicants have invested in their FIT projects, Blue Planet

²⁰⁷2009 FIT Order at 98.

²⁰⁸2009 FIT Order at 87 (emphasis added).

observes, and the commission agrees, that such applicants "invest, at their own risk, in projects that may possibly advance."²⁰⁹

8. None of the commenters' other arguments in opposition to Step No. 1, i.e., deterred participation in the FIT program or administrative efficiency, are dispositive of whether the Commission may approve this step. Moreover, the commission specifically finds as follows:

A. With respect to policy, Step No. 1 is consistent with the State's clean energy policy and the FIT program objectives because eliminating the Reserve Queue will help to phase out the initial, "two-year trial" of the FIT program and make way for a new, more viable program.²¹⁰

B. With respect to deterred participation in the FIT program, the commission agrees with the HECO Companies and the IO that such claims are speculative.²¹¹

C. With respect to administrative efficiency, it would be more administratively efficient to release all Reserve Queue applications than it would be to maintain a Reserve Queue while FIT reexamination is underway.

²⁰⁹Blue Planet's Comments at 4 (emphasis added).

²¹⁰2013 FIT Order at 8.

²¹¹HECO Companies and IO's Response at 14-15.

9. Therefore, based on these findings and on its review of the entire record, the commission concludes that Step No. 1 is reasonable, and, therefore, approves Step No. 1 of the Joint Plan, subject to the condition that all Reserve Queue applicants shall receive a refund of both their application fees and reservation fees within ten (10) business days from the date the applicant is released from the reserve queue. In addition, Step No. 1 shall be completed within thirty (30) days of the date of this Order.

B.

Commission's Findings And Conclusions On Step No. 2

10. The commission concludes that, subject to certain conditions, Step No. 2 in the Joint Plan - categorizing applications in the Active Queue - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support thereof, the commission specifically finds as follows:

11. Notwithstanding Paragraph 12, below, the categories proposed in Step No. 2, e.g., whether an IRS is required and whether payment has been made,²¹² are reasonable and clear because

²¹²Joint Plan at 5-6, Table 1.

they are consistent with the sequence of requirements in the FIT program queuing and interconnection procedures.²¹³

12. However, Meridian argues, and the HECO Companies and the IO agree, that most Tier 3 projects do not require a service request, and therefore, these projects should not be categorized as such.²¹⁴ Thus, the HECO Companies and the IO propose in their response that:

[T]he Companies and IO can clarify that if a service upgrade is required for a particular project, then the pre-execution milestones regarding the service request would apply. If no service upgrade is required (as is the case for most Tier 3 projects) then the Companies and IO would categorize the application as if the service request milestones had been met.²¹⁵

The commission hereby accepts and adopts as reasonable this proposed clarification to Step No. 2.

13. With respect to moving shovel-ready projects to completion, the commission finds as follows:

²¹³See, e.g., Appendix II, Feed-in Tariff (FIT) Program Queuing and Interconnection Procedures for Tiers 1 and 2 (Sheet No. 80, Effective October 22, 2010); Appendix II, Feed-in Tariff (FIT) Program Queuing and Interconnection Procedures for Tier 3 (Sheet No. 80.3, Effective December 30, 2011).

²¹⁴Compare Meridian's Comments at 7-8 with HECO Companies and IO's Response at 19-20.

²¹⁵HECO Companies and IO's Response at 20.

A. Categorization of projects in the Active Queue is necessary to determine whether projects are shovel ready.

B. Neither the Consumer Advocate nor any Intervenor stating a position on Step No. 2 oppose the categorization of projects in the Active Queue, in concept.

14. The commission declines to address in this Order Blue Planet's argument that implementing Step No. 2 should be accompanied by modifications to Rule 14H.²¹⁶ In Order No. 31424, the commission specifically stated, "[a]ny Intervenor or participant will not be allowed to broaden the issues or unduly delay the proceeding."²¹⁷ Addressing modifications to Rule 14H in this Order would broaden and unduly delay this particular phase in the FIT Reexamination proceeding, which the commission explicitly stated should focus on "administration of the FIT queues while this reexamination proceeding is pending."²¹⁸

15. Therefore, based on these findings and on its review of the entire record, the commission concludes that Step No. 2 is reasonable and therefore approves Step No. 2 in the Joint Plan, subject to the condition that if no service upgrade is

²¹⁶Blue Planet's Comments at 6.

²¹⁷Order No. 31424 at 15; see HAR § 6-61-55(d) ("Intervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented.").

²¹⁸2013 FIT Order at 15 (emphasis added).

required for a particular project, the HECO Companies and the IO shall categorize the application as if the service request milestones have been met. In addition, Step No. 2 shall be completed within thirty (30) days of the date of this Order.

C.

Commission's Findings And Conclusions On Step No. 3

16. The commission concludes that, subject to certain conditions, Step No. 3 in the Joint Plan - establishing deadlines to cure incomplete applications in the Active Queue - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support thereof, the commission specifically finds as follows:

17. Commenters generally propose extending the deadlines for those that are proposed for ten (10) business days.²¹⁹

18. Adopting a fifteen (15) business day deadline for all actions would:

A. Address the numerous concerns expressed by commenters that the ten (10) business day deadlines proposed in the Joint Plan are too short; and

²¹⁹See CA's Comments at 6; Blue Planet's Comments at 7; HSEA's Comments at 6.

B. Standardize and simplify the deadlines proposed in the Joint Plan.

19. The commission rejects the arguments of the Consumer Advocate, DBEDT, and HREA that the Joint Plan is vague and overbroad as to the documentation required to satisfy this step because:

A. The Joint Plan includes a list of possible required documentation;²²⁰ and

B. As detailed in Step No. 4 of the Joint Plan, even if an Active Queue applicant fails to provide such documentation, the HECO Companies cannot remove the applicant from the Active Queue without the IO's concurrence.²²¹ Hence, if the HECO Companies were to impose excessive or overly onerous documentation requirements for a project, the IO could reject the HECO Companies' decision to remove the project from the Active Queue for failure to produce such documentation within the requisite timeframe.

20. With respect to moving shovel-ready projects to completion, the commission finds that establishing deadlines to cure incomplete applications is necessary for moving shovel-ready projects to completion within tariff-prescribed timeframes.

²²⁰Joint Plan at 7.

²²¹Joint Plan at 8.

21. Therefore, based on these findings and its review of the entire record, the commission concludes that Step No. 3 of the Joint Plan is reasonable, and therefore approves the deadlines proposed in Step No. 3 of the Joint Plan, subject to the condition that all ten (10) business day deadlines shall be extended to fifteen (15) business day deadlines. In addition, within forty-five (45) days of the date of this Order, the HECO Companies shall provide all applicants in the Active Queue written notice of all documentation and actions required to prove the project is shovel-ready and progressing toward completion within the FIT timeframes. Stated differently, all incomplete applications currently in the queue shall be cured or removed within forty-five (45) days of the date of this Order.

D.

Commission's Findings And Conclusions On Step No. 4

22. The commission concludes that, subject to certain conditions, Step No. 4 in the Joint Plan - removing incomplete applications from the Active Queue - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of this conclusion, the commission specifically finds as follows:

23. Removing incomplete applications from the Active Queue clearly establishes and distinguishes the status of shovel-ready projects and non-shovel ready projects.

24. In response to HSEA's concern regarding notice to applicants for decisions to remove applications from the Active Queue,²²² the HECO Companies and the IO confirm that "proper and timely notice of such activity will be provided through the FIT website..."²²³ The commission hereby accepts and adopts as reasonable the HECO Companies and the IO's clarification.

25. The commission finds that removing applicants who fail to cure incomplete applications within the requisite timeframes could ensure that only shovel-ready projects in the Active Queue are able to move to completion.

26. Aside from DBEDT, all commenters stating a position on Step No. 4 do not object to removing incomplete applications from the Active Queue, in concept.²²⁴

27. The commission rejects DBEDT's argument that this Step No. 4 is "not consistent with State policies for advancing the deployment of renewable energy in Hawaii."²²⁵

²²²HSEA's Comments at 6.

²²³HECO Companies and IO's Response at 23.

²²⁴See Blue Planet's Comments at 7; Tritium3's Comments at 8-9; HSEA's Comments at 6.

²²⁵DBEDT's Comments at 10.

Instead, the commission agrees with the HECO Companies and the IO's counterargument that such removal actually "make[s] room for other more viable renewable energy capacity."²²⁶

28. The commission rejects Tritium3's proposal that applicants who fail to comply with the deadlines in Step No. 3 "should be afforded a reasonable cure period"²²⁷ because:

A. Applicants will be given timely notice of incomplete applications via the HECOFITIO website;²²⁸ and

B. The fifteen (15) business day deadline to cure incomplete applications is reasonable, as discussed in Section IV.C, above.

29. The commission rejects Blue Planet's proposal that a Reserve Queue should remain in place with projects available to advance to the Active Queue²²⁹ for the reasons stated in Section IV.A, above.

30. Therefore, based on these findings and its review of the entire record, the commission concludes that Step No. 4 is reasonable, and therefore, approves the Step No. 4 in the Joint Plan, subject to the condition that the HECO Companies and

²²⁶HECO Companies and IO's Response at 20.

²²⁷Tritium3's Comments at 8.

²²⁸Joint Plan at 8; HECO Companies and IO's Response at 23.

²²⁹Blue Planet's Comments at 7.

the IO shall give proper and timely notice to applicants prior to removal from the Active Queue.

E.

Commission's Findings And Conclusions On Step No. 5

31. The commission concludes that, subject to certain conditions, Step No. 5 - establishing a revised guaranteed COD - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of this conclusion, the commission specifically finds as follows:

32. The HECO Companies' proposed COD would standardize, by tier, and simplify CODs for FIT projects.

33. The Consumer Advocate and all Intervenors stating a position on Step No. 5 support the HECO Companies' proposed COD as opposed to the IO's proposed COD.²³⁰

34. The HECO Companies' proposed COD should ensure that FIT projects are completed within tariff-prescribed timeframes, i.e., within twelve (12) months for Tier 1 and Tier 2 projects, and within eighteen (18) months for Tier 3 projects.

²³⁰See CA's Comments at 6; Blue Planet's Comments at 8; HSEA's Comments at 6; Solar Hub's Comments at 1; DEP's Comments at 3; Tritium3's Comments at 10 n. 14.

35. The commission rejects Tritium3 and Meridian's proposals that the Start Date should be the latter of the execution date and the issuance of any required commission approval.²³¹ Any delays caused by the commission approval process can be mitigated by the Joint Plan's procedure for granting extensions, as discussed in Section IV.I, below.

36. Therefore, based on these findings and its review of the entire record, the commission concludes that Step No. 5 of the Joint Plan is reasonable, and, therefore, approves Step No. 5 of the Joint Plan, provided that the HECO Companies' proposed COD shall be controlling. In addition, Step No. 5 shall be completed within forty-five (45) days of the date of this Order.

F.

Commission's Findings And Conclusions On Step No. 6(1)

37. The commission concludes that, subject to certain conditions, Step No. 6(1) - establishing development milestones for each project after execution of the FIT Agreement - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of the conclusion, the commission specifically finds as follows:

²³¹Tritium3's Comments at 14; Meridian's Comments at 11.

38. Notwithstanding Paragraph 39, below, the milestones proposed in Step No. 6(1), e.g., execution of the FIT agreement, posting of a building permit, posting of a purchase order, and photographic evidence,²³² are clear, straightforward, and reasonable because they are consistent with the development process.

39. Nonetheless, with respect to Tier 3 projects, Meridian and Tritium3 argue, and the HECO Companies and the IO are willing to agree, that the milestone provisions contained in existing Tier 3 FIT Agreements should not be replaced with new milestones.²³³ In this regard, the HECO Companies and the IO propose in their response to comments that "solely for Tier 3 FIT projects in the Active Queue, the existing milestones in the Tier 3 FIT Agreement should control," provided that these projects are subject to the existing Tier 3 tariff and therefore "must continue to be placed in-service eighteen (18) months from the execution of the FIT Agreement."²³⁴ The commission hereby accepts and adopts as reasonable this proposed clarification to Step No. 6(1).

²³²Joint Plan at 9-10.

²³³Compare Meridian's Comments at 9-11 and Tritium3's Comments at 10-15 with HECO Companies and IO's Response at 29.

²³⁴HECO Companies and IO's Response at 29.

40. In Order No. 31424, the commission specifically stated that a lack of development milestones for the FIT program has allowed projects to "remain on the FIT queues without any proof [of] actual development efforts."²³⁵

41. Milestones will ensure that projects are shovel ready and proceeding in accordance with tariff-prescribed timeframes.

42. Furthermore, the commission rejects Blue Planet's proposed alternative development milestones²³⁶ because the Joint Plan's more detailed milestones will better ensure that FIT projects are moving forward in a timely manner.

43. Therefore, based on these findings and its review of the entire record, the commission concludes that Step No. 6(1) of the Joint Plan is reasonable, and, therefore, approves the milestones proposed in Step No. 6(1) of the Joint Plan, subject to the condition that the existing milestones in Tier 3 FIT Agreements, where existing, shall be controlling.

²³⁵2013 FIT Order at 10 (citing IO's Reexamination Report at 34).

²³⁶Blue Planet's Comments at 8.

G.

Commission's Findings And Conclusions On Step No. 6(2)

44. The commission finds and concludes that Step No. 6(2) in the Joint Plan - monitoring and enforcing development milestones - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of this conclusion, the commission specifically finds as follows:

45. Monitoring and enforcing development milestones could prevent non-shovel ready projects with inadequate progress from lingering on the Active Queue.

46. The commission rejects Blue Planet's proposal that a Reserve Queue should remain in place with projects available to advance to the Active Queue²³⁷ for the reasons stated in Section IV.A, above.

47. To be effective, development milestones must be monitored and enforced.

48. Aside from Meridian and Tritium3, who do not support the development milestones and therefore do not support monitoring and enforcing them,²³⁸ all commenters stating a position

²³⁷Blue Planet's Comments at 9.

²³⁸Meridian's Comments at 8-12; Tritium3's Comments at 9-15.

on Step No. 6(2) support the monitoring and enforcement of development milestones.²³⁹

49. Therefore, based on these findings and its review of the entire record, the commission concludes that Step No. 6(2) of the Joint Plan is reasonable and, therefore, approves Step No. 6(2) of the Joint Plan.

H.

Commission's Findings And Conclusions On Step No. 7

50. The commission concludes that, subject to certain conditions, Step No. 7 in the Joint Plan - removing projects from the Active Queue that do not meet development milestones - avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of this conclusion, the commission specifically finds as follows:

51. Removing projects from the Active Queue that fail to meet development milestones clearly establishes and distinguishes the status of shovel-ready projects and non-shovel ready projects.

²³⁹See CA's Comments at 7; HSEA's Comments at 6; Blue Planet's Comments at 9.

52. Nonetheless, it is unclear in Step No. 7 of the Joint Plan whether concurrence of both the HECO Companies and the IO is required before a project can be removed from the Active Queue.²⁴⁰ The commission hereby clarifies that such concurrence is required.

53. The commission rejects Blue Planet's proposal that a Reserve Queue should remain in place with projects available to advance to the Active Queue²⁴¹ for the reasons stated in Section IV.A, above.

54. Because the Reserve Queue will cease to exist upon execution of the Joint Plan, the Consumer Advocate's comment that projects removed from the Active Queue should not be allowed to move to the Reserve Queue²⁴² is moot.

55. Removing projects from the Active Queue that do not meet development milestones will ensure that only shovel-ready projects progress to completion.

56. Therefore, based on these findings and its review of the entire record, the commission concludes that Step No. 7 of the Joint Plan is reasonable, and, therefore,

²⁴⁰Joint Plan at 11 (stating in Step No. 7 that "[w]ith concurrence of the IO, the Companies would notify each Active Queue Applicant when a milestone has been missed.").

²⁴¹Blue Planet's Comments at 9.

²⁴²CA's Comments at 7.

approves Step No. 7 of the Joint Plan, subject to the condition that concurrence of both the HECO Companies and the IO shall be required before a project can be removed from the Active Queue.

I.

Commission's Findings And Conclusions On Extensions
For Good Cause

57. The commission concludes that, subject to certain conditions and clarifications, the extension for good cause procedure in the Joint Plan avoids confusion and uncertainty regarding the status of FIT projects and adheres to the objectives of moving shovel-ready projects to completion within tariff-prescribed timeframes. In support of this conclusion, the commission specifically finds as follows.

58. In response to Blue Planet's argument that extensions should be granted for failure of the HECO Companies to comply with interconnection requirements under Rule 14H,²⁴³ the HECO Companies and the IO confirm that "specifically with regard to requests for extensions of milestones, to the extent that any delays are caused by the Hawaiian Electric Companies that a day for day extension of time for the period of the delay shall be granted to the project to comply with the applicable

²⁴³Blue Planet's Comments at 7.

milestone."²⁴⁴ The commission hereby accepts and adopts this clarification as reasonable.

59. An extension procedure could address extraordinary circumstances that may cause an applicant to miss a development milestone or delay the completion of a project within the required timeframe. Under the proposed extension procedure in the Joint Plan, however, the HECO Companies and the IO each have the power to unilaterally reject an applicant's request for an extension.²⁴⁵

60. The commission agrees with the position of the Consumer Advocate, DBEDT, and HSEA's assertions that the HECO Companies should not have the power to unilaterally reject an applicant's request for an extension.²⁴⁶ Some delays may be the result of the HECO Companies' actions or lack thereof.

61. Therefore, based on these findings and its review of the entire record, the commission concludes that the Joint Plan's procedure for granting extensions for good cause is reasonable, subject to the conditions and clarifications that: (1) the HECO Companies and the IO may each unilaterally approve a

²⁴⁴HECO Companies and IO's Response at 27.

²⁴⁵Joint Plan at 11 ("If either the Company and/or the IO fail to agree to a requested extension, the Project shall be removed from the Active Queue.").

²⁴⁶See CA's Comments at 7; DBEDT's Comments at 10; HSEA's Comments at 7.

request for an extension; (2) the HECO Companies may not unilaterally reject an applicant's request for an extension; a request for an extension may only be rejected by the joint approval of the HECO Companies and the IO; and (3) to the extent that any delays are caused by the HECO Companies, a day for day extension of time for the period of the delay shall be granted to the project to comply with the applicable milestone.

VI.

Orders

1. Subject to the conditions set forth in Ordering Paragraph No. 2, below, the Joint Plan submitted by the HECO Companies and the IO is approved.

2. The approval under Ordering Paragraph No. 1, above, is subject to the following conditions:

A. With respect to Step No. 1 of the Joint Plan, all Reserve Queue applicants shall receive a refund of both their application and reservation fees within ten (10) business days from the date the applicant is released from the reserve queue. In addition, Step No. 1 shall be completed within thirty (30) days of the date of this Order.

B. With respect to Step No. 2 of the Joint Plan, if no service upgrade is required for a particular project, the HECO Companies and the IO shall categorize the application as

if the service request milestones have been met. In addition, Step No. 2 shall be completed within thirty (30) days of the date of this Order.

C. With respect to Step No. 3 of the Joint Plan, all ten (10) business day deadlines shall be extended to fifteen (15) business day deadlines. In addition, within forty-five (45) days of the date of this Order, the HECO Companies shall provide all applicants in the Active Queue written notice of all documentation and actions required to prove the project is shovel-ready and progressing toward completion within the FIT timeframes. Stated differently, all incomplete applications currently in the queue shall be cured or removed within forty-five (45) days of the date of this Order.

D. With respect to Step No. 4 of the Joint Plan, the HECO Companies and the IO shall give proper and timely notice to applicants prior to their removal from the Active Queue.

E. With respect to Step No. 5 of the Joint Plan, the HECO Companies' proposed COD shall be controlling. In addition, Step No. 5 shall be completed within forty-five (45) days of the date of this Order.

F. With respect to Step No. 6(1) of the Joint Plan, the existing milestones in Tier 3 FIT Agreements, where existing, shall be controlling.

G. With respect to Step No. 7 of the Joint Plan, concurrence of both the HECO Companies and the IO shall be required before a project can be removed from the Active Queue.

H. With respect to the Joint Plan's procedure for granting extensions for good cause: (1) the HECO Companies and the IO may each unilaterally approve a request for an extension; (2) the HECO Companies may not unilaterally reject an applicant's request for an extension; a request for an extension may only be rejected by the joint approval of the HECO Companies and the IO; and (3) to the extent that any delays are caused by the HECO Companies, a day for day extension of time for the period of the delay shall be granted to the project to comply with the applicable milestone.

3. The failure to comply with any of the requirements set forth in Ordering Paragraph No. 2, above, may constitute cause to void this Decision and Order, and may result in further regulatory action as authorized by State law.

4. To the extent that this Decision and Order modifies the existing FIT tariff, such modifications shall take precedence over any conflicting provisions in the existing tariff. The HECO Companies shall file any proposed tariff modifications resulting from this Order in this docket within fifteen (15) days of the date of this Order.

5. Future revisions or modifications to the FIT program will be addressed either in Docket No. 2014-0192, which has been established to investigate DER policies, or in Docket No. 2014-0183, which has been established to review the HECO Companies' PSIPs.

DONE at Honolulu, Hawaii DEC - 5 2014.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By *Hermina Morita*
Hermina Morita, Chair

By *Michael E. Champley*
Michael E. Champley, Commissioner

By *Lorraine H. Akiba*
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:

Thomas C. Gorak
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Commission Counsel

2013-0194.jjk

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail,
postage prepaid, and properly addressed to the following parties:

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