BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----------In the Matter of----------	)
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	)
Instituting a Proceeding to Investigate Proposed Amendments to the Framework for Integrated Resource Planning.	)

Docket No. 2009-0108

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KAUAI ISLAND UTILITY COOPERATIVE'S RESPONSE TO NATIONAL REGULATORY RESEARCH INSTITUTE'S COMMENTS ON CLEAN ENERGY SCENARIO PLANNING

AND

CERTIFICATE OF SERVICE

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KAUAI ISLAND UTILITY COOPERATIVE'S RESPONSE TO NATIONAL REGULATORY RESEARCH INSTITUTE'S COMMENTS ON CLEAN ENERGY SCENARIO PLANNING

KAUAI ISLAND UTILITY COOPERATIVE ("KIUC"), by and through its attorneys, Morihara Lau & Fong LLP, hereby submits the following response to the National Regulatory Research Institute's ("NRRI") comments entitled "Clean Energy Scenario Planning: Thoughts on Creating a Framework," dated November 3, 2009 ("Comments").[1]

[1] The parties in this proceeding are: (1) Hawaiian Electric Company, Inc. ("Hawaiian Electric"); (2) Hawaii Electric Light Company, Inc. ("HELCO"); (3) Maui Electric Company, Limited ("MECO") (Hawaiian Electric, HELCO and MECO collectively referred to as "Hawaiian Electric Companies"); (4) KIUC; (5) the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"); (6) the Department of Business, Economic Development, and Tourism ("DBEDT"); (7) County of Hawaii; (8) County of Maui; (9) County of Kauai; (10) Haiku Design and Analysis; (11) Hawaii Renewable Energy Alliance; (12) Blue Planet Foundation; (13) Hawaii Solar Energy Association; and (14) JW Marriott Ihilani Resort & Spa, Waikoloa Marriott Beach Resort & Spa, Maui Ocean Club, Wailea Marriott, and Essex House Condominium Corporation, on behalf of Kauai Marriott Resort & Beach Club (collectively, "Parties"). On October 26, 2009, the Commission issued an Order approving Forest City Hawaii Residential, Inc's request to amend its status as an Intervenor/party to a Participant. On November 23, 2009, KIUC filed a request for extension of time to file its response to the NRRI Comments on December 2, 2009.

As a preliminary comment, KIUC appreciates the time and work done by NRRI in providing useful and helpful comments to the Parties/Participant in this proceeding, and its efforts to focus the Parties' and Participant's attention by clearly articulating various issues that should be considered by each Party and Participant in analyzing their respective objectives, recommendations and positions in this proceeding, particularly concerning whether and how to revise the existing Integrated Resource Planning ("IRP") Framework or to instead perhaps establish an entirely new framework.

In sum, KIUC believes that the existing IRP Framework has been a very useful and beneficial tool for KIUC and its predecessor in their respective prior planning efforts by establishing a framework that uniformly applies to all energy utilities in Hawaii. Through purposely designed broad-based planning guidelines and requirements, the framework allows these utilities the appropriate and reasonable flexibility to effectively address present and future energy needs as they may evolve and to implement applicable energy policies and mandates that are established over time. In other words, the existing IRP Framework establishes certain requirements and considerations for each utility to follow as part of its planning, but does so in a way that allows each utility to determine how best to meet these requirements and considerations within the context of its own structure (e.g., cooperative structure like KIUC) and any other specific objectives or requirements imposed upon the utility, as well as to allow for changes in laws, interests, objectives and requirements over time. It is this flexibility that is already inherent in the existing IRP Framework that would enable many of the Clean Energy Scenario Planning ("CESP") concepts, approaches and objectives identified by NRRI and many of the Parties and Participant to be accomplished under the current IRP

Framework. Although KIUC recognizes that certain changes would be necessary to further hone and update the IRP Framework since its inception in 1992 to incorporate some of these CESP principles and objectives, KIUC believes that any framework established in this proceeding (whether it is called IRP or CESP) should remain broad-based and flexible to ensure its ongoing applicability to these energy utilities, and to accommodate differences between investor-owned utilities ("IOUs") and cooperatives in particular.[2]

I. KIUC's Response to NRRI's Comments

A. Hawaii's Existing IRP Framework

Although NRRI acknowledges that it is not familiar with the Hawaii IRP process, NRRI states that the goal of IRP in general is to ensure the lowest cost without consideration of different future scenarios.[3] KIUC believes that the above sentence does not accurately describe Hawaii's IRP Framework and how KIUC has prepared its latest IRP in December 2008. The IRP Framework is not limited to only a lowest cost

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[2] See also, KIUC's response to DBEDT-IR-1-KIUC, filed on November 25, 2009. To further clarify and avoid any confusion as to KIUC's role in this proceeding, KIUC does not currently have a CESP proposal in this proceeding. Although KIUC was a signatory to the Hawaiian Electric Companies' April 28, 2009 letter to the Commission submitting a proposed CESP Framework, KIUC's only addition to that proposed CESP Framework was a provision that would allow KIUC to seek a waiver or exemption from any or all portions of the framework once it was established. See the April 28, 2009 letter and KIUC's responses to DBEDT-IR-1-KIUC and HSEA-IR-1(a) for a further discussion.

[3] NRRI states, in relevant part: (1) "IRP identifies least-cost resources to meet a small band of pre-determined trends or forecasts." (NRRI Comments at 1); (2) "[I]ntegrated resource planning [is] finding the least cost solution for a defined need." (NRRI Comments at 1); (3) "The single-future view with a least-cost-centric solution resembles the integrated resource planning (IRP) used by many utilities." (NRRI Comments at 3); and (4) "Although IRP looks at different trends in fuel prices and load growth, it seldom looks at widely different future scenarios, where those scenarios flow from events beyond the utility's (or anyone's) control." (NRRI Comments at 3).

NRRI does add the following caveat: "Because we have not worked within the Hawaii IRP process, we do not mean our broad-brush statement to apply fully to Hawaii. Although least-cost solutions are the focus of IRP, planning decisions under IRP sometimes deviate from a pure least-cost solution. It is for the Hawaii-experienced readers to determine how well the shoe fits." NRRI Comments at 3, fn. 2.

analysis, but instead sets forth a planning process that evaluates various resource options for meeting present and future electricity demand at the lowest reasonable cost under the circumstances. In establishing the IRP Framework in 1992, the Commission stated, in relevant part:

> In fashioning its framework, the [C]ommission was guided by the need for the framework to ensure the achievement of the fundamental purpose of integrated resource planning, and by the need to allow each utility flexibility in fashioning a process that fits its particular characteristics. The [C]ommission believes that the framework it has adopted serves both of these needs.
>
> The framework prescribes in general what the utilities are required to do and the factors to be considered in developing their respective integrated resource plans. It outlines the [C]ommission's minimum expectations concerning the utilities' plans and planning processes. Within these general guidelines, the utilities are free to fashion their processes and develop their plans as they see fit, subject to the advice and input of the utilities' integrated resource advisory groups.
>
> The [C]ommission does not believe that the level of specificity provided in the Consumer Advocate's and [Blue Ocean Preservation Society's] proposed frameworks is necessary- -at least, not at this time. That level of specificity may be counterproductive.
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> * * *
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> In keeping with its approach of providing general guidelines, the [C]ommission does not include in its adopted framework a detailed enumeration of the data to be collected or a specification of the methodology to be used in forecasting. The [C]ommission's framework provides for the use of all reasonable methodologies, including, as practicable and economically feasible, the disaggregated end-use methodology. The [C]ommission expects the utilities, with the advice of advisory groups, to determine the appropriate methodologies to be used in forecasting.[4]

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[4] See Docket No. 6617, Decision and Order No. 11523, filed on March 12, 1992 ("Decision and Order No. 11523") at 10-11 and 20-21.

Approximately 13 to 14 years later (i.e., in 2006) in Docket No. 05-0075, the Commission, in reviewing KIUC's proposed revisions to the IRP Framework to specifically address the needs of KIUC as an electric cooperative,[5] both the Commission and the Consumer Advocate concluded that more specificity was not required and instead re-emphasized the broad-based nature of and necessary flexibility afforded by the IRP Framework. In its decision, the Commission summarized the Consumer Advocate's position by stating the following:

> [T]he Consumer Advocate maintains that the existing IRP Framework is broadly written to allow for the flexibility that KIUC is seeking through its proposed revisions.
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> * * *
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> With regard to KIUC proposing IRP Framework revisions for additional flexibility to reduce IRP costs, the Consumer Advocate asserts that it opposes the revisions since language in the IRP Framework already exists to allow KIUC the flexibility that it is seeking. The Consumer Advocate points to specific language in the IRP Framework that: (1) recognizes the need to 'allow each utility flexibility in fashioning a process that fits its particular characteristics'; and (2) states that each utility is free to develop their processes and plans as they see fit.[6]

The Commission agreed with the Consumer Advocate's position in finding that "the substantive revisions proposed by KIUC to its IRP Framework are unnecessary" and concluding that "the IRP Framework appears to be broadly written to already allow for the flexibility that KIUC was seeking through its proposed revisions."[7] As a result, only

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[5] See Docket No. 05-0075, Decision and Order No. 22490, filed on May 26, 2006 ("Decision and Order No. 22490"). Believing that the "IOU perspective" permeated the IRP Framework, KIUC sought to revise the IRP Framework to replace the IOU perspective with a cooperative one. KIUC proposed numerous revisions to the IRP Framework. See Decision and Order No. 22490 at 3 and Order No. 21707, filed on March 24, 2005, in Docket No. 05-0075.

[6] See Decision and Order No. 22490 at 4-6 (quotations and citations omitted).

[7] Id. at 9.

the "non-substantive changes to the IRP Framework noted by the Consumer Advocate and agreed to by KIUC regarding the utility's name change to KIUC and the increased filing threshold under paragraph 2.3.g.2 of G.O. No. 7" were found to be appropriate by the Commission, and as a result the IRP Framework was modified by the Commission only to that extent.[8]

In light of the above decisions and as evidenced by the language in the framework itself, the IRP Framework was created with inherent flexibility to adapt and allow for variations to address changes in technologies, community interests and other factors that may not apply in two, five, or ten years. This multi-view process is expressly contemplated in Governing Principle No. 4 of the IRP Framework, which requires that "[i]ntegrated resource plans shall give consideration to the plans' impacts upon the utility's consumers, the environment, culture, community lifestyles, and the State's economy, and society."[9] The IRP Framework does not restrict the planning process by requiring a "single-future view with a least-cost-centric solution"[10] as NRRI states generally applies to IRP processes outside of Hawaii. Hawaii's IRP Framework instead allows the utility to make a determination of the lowest reasonable cost under the circumstances after consideration of various factors and objectives set forth in the IRP Framework beyond just a consideration of financial cost.

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[8] Id.

[9] IRP Framework, Section II.B.4 at 3.

[10] NRRI Comments at 3.

B. The Existing IRP Framework Already Accomplishes or Allows for the Accomplishment of Many CESP Objectives

Given NRRI's view of the IRP process in general, NRRI concludes that "scenario planning is sufficiently different from traditional integrated resource planning and that its successful implementation requires more than editing the 1992 document."[11] KIUC respectfully disagrees with this statement because the existing IRP Framework is not limited to only performing "traditional" integrated resource planning. On the contrary, due to the broad-based nature of the current IRP Framework and its intended flexibility to allow the utilities to utilize any number of methods to "personalize" their planning process, KIUC contends that the concepts, approaches and objectives of the IRP Framework and CESP do not conflict with each other and the existing IRP framework already allows for many of the CESP concepts, approaches and objectives identified by NRRI.

1. The Existing IRP Framework Allows for the Consideration and Incorporation of Clean and Renewable Energy Goals

As NRRI emphasizes, CESP involves incorporating clean and renewable energy goals into its future planning. Presumably, this would mean incorporating planning to meet the State's Renewable Energy Portfolio requirements,[12] as well as KIUC's own

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[11] NRRI Comments at 1.

[12] The State's Renewable Portfolio Standards ("RPS") are contained in Hawaii Revised Statutes § 269-92, as amended, and provide as follows:

(a) Each electric utility company that sells electricity for consumption in the state shall establish a renewable portfolio standard of:
(1) Ten per cent of its net electricity sales by December 31, 2010;
(2) Fifteen per cent of its net electricity sales by December 31, 2015;
(3) Twenty-five per cent of its net electricity sales by December 31, 2020; and
(4) Forty per cent of its net electricity sales by December 31, 2030.

goals as expressed in its cooperative Strategic Plan, which is to move KIUC towards energy independence and decreased reliance on foreign imported oil by meeting at least 50% of KIUC's annual electricity sales with energy generated by renewable resources by 2023. This would necessarily take into consideration the logistical aspects of generation siting and the resulting size and location of required transmission and distribution infrastructure, which will be largely dependent on the location of the renewable resource itself (e.g., wind, sun, water). These CESP goals could be met by multiple scenario analyses that would identify a range of energy options for both near and long-term planning, while at the same time considering and balancing the cooperative objectives of KIUC's member-elected Board, initiatives implemented by other electric cooperatives, KIUC's energy, capacity and reliability requirements, and the requirements imposed by KIUC's lenders.

KIUC believes that the clean energy scenario planning process described above is already allowed under the existing IRP Framework, which requires "[i]ntegrated resource plans [to] comport with state and county environmental, health, and safety

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(b) The public utilities commission may establish standards for each utility that prescribe what portion of the renewable portfolio standards shall be met by specific types of renewable energy resources; provided that:

(1) Prior to January 1, 2015, at least fifty per cent of the renewable portfolio standards shall be met by electrical energy generated using renewable energy as the source, and after December 31, 2014, the entire renewable portfolio standard shall be met by electrical generation from renewable energy sources;

(2) Beginning January 1, 2015, electrical energy savings shall not count toward renewable energy portfolio standards;

(3) Where electrical energy is generated or displaced by a combination of renewable and nonrenewable means, the proportion attributable to the renewable means shall be credited as renewable energy; and

(4) Where fossil and renewable fuels are co-fired in the same generating unit, the unit shall be considered to generate renewable electrical energy (electricity) in direct proportion to the percentage of the total heat input value represented by the heat input value of the renewable fuels.

laws and formally adopted state and county plans."[13] The existing IRP Framework also specifically acknowledges the interest in reducing the State's dependence on imported oil. See Section IV.B.2 of the existing IRP Framework, which states that, "given the parameter of the State goal of less dependence on imported oil, the utility may set as an objective the achievement of lowering to a specific level the use of imported oil." These provisions as well as other provisions in the IRP Framework already allow for or are broad enough to allow for the consideration and implementation of clean and renewable energy goals into future planning.

2. Other General Provisions in the Existing IRP Framework That Provide Flexibility to Encompass CESP

The existing IRP Framework already contains numerous provisions that were crafted to allow each utility the ability to fashion a process that fits its particular characteristics and needs and that are already broad enough to accomplish and encompass many other aspects of CESP. In support of this, and in addition to the provisions discussed in Section I.B.1 above pertaining specifically to clean and renewable energy goals, the existing IRP Framework contains the following:

- Section II.B.3: This section mandates that the "[i]ntegrated resource plans shall be developed upon consideration and analyses of the costs, effectiveness, and benefits of all appropriate, available, and feasible supply-side and demand-side options."

- Section III.D.1: This section requires that the IRP include, among other things, "a full and detailed description of . . . the plan's external costs and benefits . . . [and] the relative sensitivity of the plan to changes in assumptions and other conditions." The term "external benefits" is defined in Section I as "external economies; benefits to or positive impacts on the activities or entities outside the utility and its

[13] IRP Framework, Section II.B.2 at 3.

ratepayers. External benefits include environmental, cultural and general economic benefits." The term "external costs" is defined in Section I as "external diseconomies; costs to or negative impacts on the activities of entities outside the utility and its ratepayers. External costs include environmental, cultural, and general economic costs."

- Section III.D.2(b): This section requires that, in submitting the utility's program implementation schedule, the utility must "fully describe, among other things:" . . . "(3) The expected annual effects of program implementation on the utility and its system, the ratepayers, the environment, public health and safety, cultural interests, the state economy, and society in general."

- Section IV.B: This section identifies the objectives of the IRP as "meeting the energy needs of the utility's customers over the ensuing 20 years" and adds that the "utility may specify any other utility-specific objective that it seeks to achieve through its integrated resource plan." This section also provides that the "[C]ommission may specify other objectives for the utility . . . [which] shall be included in the order opening docket for integrated resource planning at the commencement of each planning cycle."

- Section IV.D.3: This section provides that the "utility shall initially identify all possible supply-side and demand-side resource options. The utility may, upon review, screen out those options that are clearly infeasible. An option may be deemed infeasible where the option's life cycle costs clearly outweigh its benefits or effectiveness under both societal cost-benefit and utility cost-benefit assessments. The utility, with the advice of the advisory groups, may establish such other criteria for screening out clearly infeasible options." "Societal cost" is defined in Section I as "the total direct and indirect costs to society as a whole. Society includes the utility and, in a demand-side management program, the participants." "Societal cost-benefit assessment" is defined in Section I as "an assessment for the costs and benefits to society as a whole."

- Section IV.E.1: This section specifies, among other things, that the "utility shall identify the option's total costs and benefits - - the costs to the utility and its ratepayers and the indirect, including external (spillover), costs and benefits. External costs and benefits include the

cost and benefit impacts on the environment, people's lifestyle and culture, and the State's economy."

- Section IV.F.2: This section states that the "utility shall also identify the risks and uncertainties associated with each resource option."

- Section IV.F.3: This section adds that the "utility shall further identify any technological limitations, infrastructural constraints, legal and governmental policy requirements, and other constraints that impact on any option or the utility's analysis."

- Section IV.H.1 and 2: In identifying the analyses required for the IRP, this section directs the utility to "conduct cost-benefit and cost-effectiveness analyses to compare and weigh the various options and various alternative mixes of options . . . . [and to] conduct such analyses from varying perspectives, including the utility cost perspective, the ratepayer impact perspective, the participant impact perspective, the total resource cost perspective, and the societal cost perspective."

- Section IV.I.3: In outlining how the utility is to optimize its resources, this section requires each utility to "describe the plan's impact on rates, customer energy use, customer bills, and the utility system. It shall also describe the plan's impact on external elements – the environment, people's lifestyle and culture, the State's economy, and society in general."

As evidenced by the expansive nature of these generalized considerations and requirements, it is clear that the IRP Framework was intended to be broad-based by setting forth specific requirements and considerations, but in a manner that would allow each utility the appropriate and reasonable flexibility to develop its own planning processes. KIUC believes that the existing IRP Framework already allows for many of the NRRI defined CESP concepts and objectives, including scenario planning to achieve the State's clean energy goals. Furthermore, Section IV.B of the existing IRP Framework also allows the Commission to "specify other objectives for the utility . . . in the order opening the docket." This means that to the extent there are any specific objectives that should be considered at a given time, they would not have to be

specifically identified in the context of a framework, but instead ordered by the Commission. This allows the existing framework to remain generalized and flexible and able to adjust to future changes without containing outdated requirements or considerations, while at the same time obligating the utilities to follow specific provisions as directed by the Commission.

An explicit example of the existing IRP Framework's flexibility and ability to incorporate the CESP process is KIUC's IRP filed with the Commission in December 2008. In developing its IRP, KIUC, as the first and only electric cooperative in the State, was able to operate within the established IRP Framework to consider its cooperative principles, its member objectives, various uncertainties and scenarios, and its strategic plan goal to exceed statutory RPS requirements by moving KIUC towards energy independence and decreased reliance on foreign imported oil by meeting at least 50% of KIUC's annual electricity sales with energy generated by renewable resources by 2023. KIUC was able to take all of these into consideration, including how to address various uncertainties and scenarios, in coming up with a plan that it felt balanced all of these factors and uncertainties to allow for the lowest reasonable cost plan under the circumstances. KIUC directly evaluated not only uncertainty in future load growth and fuel costs by developing ranges of forecasts for these inputs, but also the uncertainty surrounding various potential renewable technologies. KIUC's consultant then conducted "probability" analyses to determine percent chance that such scenarios would indeed occur. Each of the top-scoring plans were then modeled with those additional resources to determine the potential impacts of a yet-to-be secured resource and how it should be considered in developing the plan. This process allowed KIUC to

score and rank its plans that would allow the plans to be considered in the realm of various potential futures.

C. Increased Specificity in Any Framework Will Necessitate Additional Changes to Distinguish Between Each Utility

As noted above, KIUC agrees that although the existing IRP Framework is already broad and flexible enough to incorporate many CESP objectives, certain changes to the existing IRP Framework may be prudent or necessary to further hone the process and to ensure inclusion of current objectives, to incorporate any CESP objectives that perhaps should be identified with more specificity such as to specifically mention the review of various scenarios, and to provide additional updates due to the passage of time. However, for the reasons discussed above, KIUC believes that any such changes should remain broad enough to apply to all energy utilities. Otherwise, it will require specific changes and provisions that will need to distinguish between the different characteristics and requirements imposed on the differing utilities.

From the outset, the Commission recognized in 1992 the difficulty in providing for uniform applicability even with a broad-based IRP Framework:

> Even though the [C]ommission's framework is not as specific and detailed as the Consumer Advocate's proposal, it may yet present some difficulties to KE [or Kauai Electric, KIUC's predecessor], due to the size of its staff. Indeed, some provisions of the framework may pose problems for other utilities as well. The [C]ommission's framework makes no provision for deviations from the framework's requirements. However, as a practical matter, a utility may, at any time, request a waiver from the commission. A utility seeking such a waiver will have the burden of showing, to the [C]ommission's satisfaction, that compliance with the requirement is impossible, impractical, inappropriate, or economically infeasible.[14]

[14] Decision and Order No. 11523 at 11.

In 1992, the Commission recognized the difficulty in establishing a framework applicable to all energy utilities by acknowledging that even a broad-based framework may give rise to instances where a waiver would be necessary, particularly in Kauai's case due to the size of its electric utility relative to the Hawaiian Electric Companies. Since the establishment of the existing IRP Framework in 1992, the ownership change of Kauai's electric utility from an IOU to the State's only electric cooperative has resulted in even further and more significant changes between KIUC and the Hawaiian Electric Companies beyond just the respective sizes of the utilities. Given these differences, unless a more general and flexible approach similar to the existing IRP Framework is followed, KIUC believes that the most efficient way to establish a framework for KIUC is to allow KIUC, as contemplated by the Hawaiian Electric Companies' proposed CESP Framework, to seek a waiver or exemption from any or all portions of the framework once it is established for the Hawaiian Electric Companies, or, alternatively, to allow KIUC to propose its own separate framework. Given the material differences between KIUC and the Hawaiian Electric Companies, not only in terms of size and ownership structure, but also due to different requirements, KIUC contends that the further the framework is modified from the existing IRP Framework and the more specific the framework becomes, the greater the chance that the modifications cannot apply to both KIUC and the Hawaiian Electric Companies without creating separate provisions or sections that will specifically delineate what provisions should apply to both KIUC and the Hawaiian Electric Companies, which provisions should apply only to KIUC, and which provisions should apply on to the Hawaiian Electric Companies or other utilities.

1. Unique Factors that Distinguish KIUC

If a single framework will continue to apply to both KIUC and the Hawaiian Electric Companies, there are a number of factors that distinguish KIUC from the Hawaiian Electric Companies that must be considered in determining either any specific amendments to the existing IRP Framework or the provisions that will be contained in any new framework if the existing framework will be abandoned. A discussion of these differences follows.

a. As a Cooperative, KIUC's Ratepayers and Owners/Shareholders Are Essentially One in the Same

The fundamental difference that underlies many of the distinctions between KIUC and the Hawaiian Electric Companies is KIUC's cooperative status. As a member-owned cooperative, KIUC's ratepayers and owners/shareholders (i.e., members) are essentially one in the same. This is fundamentally very different than an IOU, whereby the IOU's owners/shareholders must be concerned with not only ensuring that they can obtain cost recovery from the ratepayers, but also to ensure that a suitable profit is earned for its owners/shareholders. As a result, for an IOU, a determination and balance must be made by the Commission as to which costs, expenses or investments should be borne by the utility's ratepayers and which costs, expenses or investments should instead be borne by the utility's owners/shareholders. Because KIUC's owners (i.e., members) and ratepayers are essentially one and the same, the inherent conflict between the interests of the ratepayers and owner/shareholders does not exist and there is no need to differentiate between the two (in other words, there is no ability to differentiate between the costs, expenses and investments that should be borne by the owners/shareholders versus the ratepaying customers as they are essentially one and

the same for a cooperative). Thus, changes to the IRP Framework that an IOU may seek to include to allow for recovery of costs or to ensure consideration or protection of customer interests may or may not need to be modified to reflect the interests of the cooperative.

b. Already Established Exemptions

In recognition of its cooperative structure, KIUC is exempt from the Competitive Bidding Framework imposed on the Hawaiian Electric Companies. See Order Granting KIUC Exemption from Framework for Competitive Bidding, filed on March 14, 2007, in Docket No. 03-0372. In addition, unlike the Hawaiian Electric Companies, KIUC is also not subject to Public Benefit Fee ("PBF") administration of energy efficiency programs. See Decision and Order No. 23258, filed on February 13, 2007, in Docket No. 05-0069. As noted in Attachment 1 to the April 28, 2009 letter submitted in this docket, the Proposed CESP Framework prepared by the Hawaiian Electric Companies includes several references to the Competitive Bidding Framework and the role of the PBF administrator. If these provisions remain in any revised or new framework, they will need to be modified to reflect the fact that KIUC is not subject to these requirements and possibly to include alternative provisions for KIUC in their place.

c. KIUC's Board of Directors

As a cooperative, KIUC is a community-based and owned organization that elects its Board of Directors from its membership base (which, as mentioned above, is essentially its customer base). This member-elected Board of Directors is mandated to represent the voice of its members and to set forth the policies and direction of the cooperative. Given its role, KIUC believes that any IRP/CESP framework should

specifically set forth the role and involvement of this member-elected Board of Directors in a new planning process.

d. Equity Management Plan ("EMP")

EMP is a planning tool used by many electric cooperatives, including KIUC, to determine an appropriate balance between near and long-term rate impacts and objectives, equity levels, and other goals and objectives of the cooperative, including to provide adequate and reliable and cost-effective electric service. KIUC's EMP provides a comprehensive overview and discussion of the financial planning for KIUC. This plan is used to establish a financial roadmap for KIUC by attempting to balance the needs and objectives of KIUC's members, lenders and regulators. In doing so, the EMP attempts to achieve an optimum balance between the sometimes conflicting interests of (1) the cooperative's equity level and targets, (2) lender covenants and requirements, (3) capital expenditures to construct renewable energy generation technologies and reduce reliance on high-cost fossil fuels, (4) capital expenditures to maximize the generation efficiency of KIUC's existing fleet of fossil fuel fired generation, and (5) a member's strategic interest for patronage capital refunds that in effect lowers the cost of electric energy for each member. KIUC's current EMP identified the following factors as being of significant importance in KIUC's financial planning efforts:

- Building equity levels to increase KIUC's equity ratio.
- Establishing appropriate regulatory and effective TIER requirements.
- Balancing borrowing needs and equity levels to fund KIUC's capital needs.
- Maintaining general consistency with KIUC's strategic plan (which calls for KIUC meeting 50% of KIUC's annual kWh sales with

eligible renewable resources by 2023 and reducing greenhouse levels to 1990 levels) and resource planning.

- Achieving the Hawaii RPS requirements.
- Maintaining appropriate cash reserve levels, and
- Evaluating future revenue requirement and future rate adjustment needs.

In its most recent EMP, KIUC performed an analysis of various uncertainties that it did not have full control over, which included looking at three scenarios (low load forecast, the continuation of the 25% patronage capital refund condition, and a reduced 2010 rate increase). In doing so, KIUC evaluated and considered the uncertainty surrounding the above, fuel prices, inflation rate levels, various power supply options that may be available to meet renewable energy goals, various capital expenditure levels and contingencies, debt vs. rate revenue funding of plant investments and potential interest rates on various possible debt obligations.

Given that many aspects of the EMP overlap with the objectives and considerations that we believe would be inherent in any CESP process (e.g., balancing of short and long-term expectations, accomplishment of renewable and clean energy initiatives, and accommodation of competing interests), any new or revised framework that contains provisions more specific than those set forth in the existing IRP Framework must consider how the EMP would be implemented as part of the resultant framework to ensure that there are no conflicts or undue redundancy in their respective requirements and processes.

e. <u>Financing</u>

As a cooperative, KIUC is able to receive financing at very favorable interest rates from the Rural Utilities Service ("RUS"), its current lender. In order to obtain this

financing, KIUC is required to follow and comply with various RUS requirements and directives, which include the preparation of a Load Forecast of at least 10 years, a Long Range Engineering Plan covering 10 or more years, and a 2-4 year Construction Work Plan. Similar to KIUC's EMP, the planning that is required and undertaken as part of the Load Forecast , Long Range Engineering Plan, and Construction Work Plan in many ways considers, undertakes, parallels and accomplishes many of the objectives that are intended to be accomplish through a CESP process. As a result, any CESP framework or revisions made to the existing IRP Framework that would apply to KIUC would require extensive review to determine how KIUC's Load Forecast, Long Range Engineering Plan, and Construction Work Plan would or should be integrated into any new or revised framework.

Due to the numerous and significant differences between KIUC and the Hawaiian Electric Companies as discussed above, KIUC emphasizes that the creation of a new or revised framework that would contain specific provisions that go beyond the broad and flexible intent of the existing IRP Framework would require in-depth analyses to determine the applicability of each requirement to both KIUC and the Hawaiian Electric Companies, and if inapplicable to both as proposed, whether the requirement should either be broadened to apply to each or instead addressed through the establishment of separate provisions or sections. KIUC believes that such analyses would require substantial effort and layers of detail. Given the difficulty of developing specific guidelines that would apply to entities as diverse as IOUs and cooperatives and their differing requirements, not to mention other utilities whose distinctions KIUC has not evaluated, as well as the likelihood that the resulting document will be equally complex

because each specific change will require multiple layers to describe its varied applicability, KIUC contemplates that under those circumstances the utilities and Parties/Participant may be better served by the establishment of separate frameworks or, alternatively, by allowing KIUC to seek a waiver or exemption from any or all portions of any framework that may be established for the Hawaiian Electric Companies. This would allow the attention to focus on the specific utility, as opposed to having to deal with multiple variables and how to make them apply to each differing utility.

In other words, KIUC contends that, if a single framework will apply to all utilities, the more general and flexible approach embodied within the existing IRP Framework must remain. Otherwise, KIUC believes that it should be allowed to seek a waiver or exemption from any or all portions of the framework once it is established for the Hawaiian Electric Companies or, alternatively, allowed to propose a separate framework more appropriate to KIUC once KIUC has become more familiar with RUS' specific planning requirements.[15]

D. Utility's Obligation to Serve

KIUC notes that the NRRI Comments do not mention or provide any consideration of the electric utility's "obligation to serve" and the fact that it is the electric utility that is obligated to make sure that it meets the electrical needs of those it serves. Similarly, the NRRI Comments also do not take into consideration that the obligation to meet RPS is placed solely on the electric utility and that it is the electric utility, not any

[15] KIUC notes that it is currently working with RUS on its first construction financing request. As a result, KIUC is only now becoming familiar with RUS' specific requirements imposed as a condition to obtain construction financing from RUS. As such, KIUC is not currently in a position to fully determine all of RUS' planning requirements and how these requirements would or should interact with any CESP framework or revisions to the existing IRP Framework that are more specific in nature than the provisions contained in the existing IRP Framework.

other party, participant or stakeholder, that would be subject to penalties should it fail to meet the RPS. At the same time, pages 9 and 10 of the NRRI Comments identify various entities as appropriate participants in the CESP process, including the PBF Administrator (which again, is not applicable to KIUC), Energy Resources Coordinator and Renewable Energy Facilitator, U.S. Department of Energy experts, other utility experts, resource developers, community groups, and economic development experts. KIUC does not generally take issue in allowing certain persons or entities to participate in any planning process, or with an open, transparent and consensual process. However, to the extent the framework will specifically mention each of these entities, the role of these entities must be clearly defined so that it sets forth the responsibilities of each entity, but at the same time, ensures that such participation does not interfere with the utility's obligation to serve and comply with RPS and other related federal, state or county energy laws/requirements. Or, if the goal is to place some of the future planning obligations and responsibilities in the hands of others, then the utility's liability for service and reliability issues and for failing to meet RPS should be reduced accordingly or the penalties for non-compliance should be shared with these entities.

II. Conclusion

As discussed above, KIUC believes that the existing IRP Framework has been and is still a very useful and beneficial tool for KIUC in its planning efforts by establishing certain requirements and considerations to follow as part of its planning, but doing so in a way that allows KIUC to determine how best to meet these requirements and considerations within the context of its own structure (e.g., cooperative structure like KIUC) and any other specific objectives or requirements that may be imposed upon

KIUC, as well as to allow for changes in laws, interests, objectives and requirements over time. KIUC also believes that many of the concepts and objectives that are intended to be accomplished through a CESP process are already allowed within the broad and flexible nature of the existing IRP Framework.

As a result, if, despite the various differences between the Hawaiian Electric Companies and KIUC as discussed above, a single framework will continue to apply to the Hawaiian Electric Companies and KIUC (i.e., a "one size fits all" approach), then KIUC believes that the existing IRP Framework should remain essentially intact, with only certain changes and updates to incorporate any established CESP concepts and objectives but in a manner similar to the existing IRP Framework that would not require a specific delineation between the Hawaiian Electric Companies and KIUC and their differing requirements and circumstances. If this is not accomplished, then, as the framework becomes more specific and the more it deviates from the intent of the existing IRP Framework, the greater the chance that the framework will not sufficiently account for or address the unique differences, requirements and circumstances between KIUC and the Hawaiian Electric Companies and would require the creation of separate provisions or entirely different sections in order to account for these differences, which would be labor intensive and likely confusing to many readers. As a result, unless a more general and flexible approach similar to the existing IRP Framework is followed in determining and establishing a revised framework, KIUC believes that the most efficient way to establish a framework for KIUC is to allow KIUC, as contemplated by the Hawaiian Electric Companies' proposed CESP framework, to seek a waiver or exemption from any or all portions of the framework once it is

established for the Hawaiian Electric Companies, or, alternatively, to allow KIUC to propose its own separate framework.

DATED: Honolulu, Hawaii, December 2, 2009.

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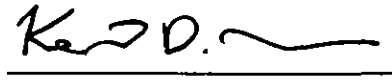

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