

GSPA Stakeholder Meeting March 12, 2019

Welcome from Rich Barone

Model doesn't mean we all have to agree to every single term at the time of filing. We can narrow the scope of the issues that require discussion.

We've come to a draft, not an overhaul but some changes in structure and order. Some terms that have risen to the surface, secondary group of terms that are categorically valuable for discussion.

We are here to hear and collect and evaluate your feedback and comments. There may be places that we need to make changes, but there may be one or two where we are not interested in making changes. Those terms will be left in place for the Commission to evaluate.

Laura invited the audience to comment on the Legal/Com/Ops structure, and no one had any comments/concerns about the way it is proposed to be structured.

HE Explanations of Terms to be discussed:

12. 1 Ownership of Company Data – Company data is inclusive of data that the supplier provides under the customer relationship.

12.2 Source Code – The company needs to find a way to escrow material that would allow the company to self-manage in the event of catastrophic failure so that the company could maintain service.

- Noa noted that different companies have different abilities to provide source code.
- Continuity is important to HECO. Commenters argued that keeping incentive for the investors to operate the resource is important; and if HECO takes the Source Code, then investors don't have incentive.

16.1 Participant Service Agreement – Consumer Advocate had raised this early on; so HECO put in a large Exhibit providing guidance/requirements for what Suppliers had to do to inform participants about rights/warnings, etc.

20.6 Standards of Conduct – General code of conduct

22.3 Letter of Credit – for Liquidated damages/default; amount based on value of contract

- “We have pegged the value as a percentage of the overall value of the contract. That has been effective, so we probably will do the same going forward.”
- It may also happen that even on a small contract a set percentage might not allow us to recoup the value of the services so there might need to be a percentage or a set dollar amount added in for those cases.

Terms Voted for Discussion:

15.8 No Extension of Term (under Force Majeure)

26.1 Metering Requirements

3.7 Failure to Meet Contract Capabilities – assessing a performance factor for supplier capabilities and suppliers are given 90 days to achieve failed capabilities. At the end of 90 days, Company can rescind purchase of unfulfilled resources according to tables.

20.5 Participant Survey – This is anticipatory term, anticipating any supplier using a survey or assessment of their participants. Company would like to see your results and have access to your customers for it's own survey of the program value to them.

22.2 Security Agreement – The company's interest would be secondary to whatever mortgage or other interests are set up. If there was any cap in the letter of credit and there were obligations that still needed to be met, the security agreement would fill that gap.

Failure to Migrate to the DERMs – Void because DERMs is up and running

20.1 Rights and Obligations of Both Parties (b) Co-branding – Wanted to raise Co-Branding issues that have come up. Our primary objective is that the online portal be co-branded as well as advertisements and press releases.

No Additional Remarks from the Room

No Additional Remarks from the Phones

We have additional remarks from the room

On the residential customer side we would like a 4 hour response window...

Laura – that might be in an exhibit, not the standard contract.

Window for comments will be open for 5 days. Comments received after the 5-day window may not make it into the filing.

Stakeholder Comments

Category: Structure/Mechanism/Term	Comments	Suggestion
12.1 Ownership of Company data	12.1 language is identical to original	Revisit language and address concerns raised during WG meetings
12.1 Ownership of Company data	Concern over data b/w Supplier and participant that is not relevant to the Company. Eg, battery used for backup etc. and how to manage it; (Noah mentioned flexibility; perhaps licensing of rights to data, as opposed to ownership)	
12.1 Ownership of Company data	Customers may have their own data ownership concerns, or at least privacy interests	
12.2 Source Code	Their code is so complex, and with a 24 hour NOC; just wouldn't work/not practical to carve out just the part of the code used to operate Hawaii resources. So monetary escrow better. Also, if they went bankrupt, there is another more senior entity that would have rights to the source code and would expect to operate the business. (Noa said they hadn't thought of that)	if there was alternate mechanism by which a creditor stepped in and assumed the responsibilities with respect to the GSPA and the participant service agreement that is something we would definitely consider. Maybe that opens up a potential discussion of an alternate solution. – said by Yoh, confirmed by STEM
12.2 Source Code	Great move forward to have a monetary escrow as an alternative to providing Source Code. Also notes that open standard could mean that another Supplier could talk to the devices, so code not needed. (Rich noted that HECO can't force another vendor to take over the device; plus they wouldn't have all the info needed to operate it efficiently and at full capacity.)	
12.2 Source Code	Suppliers are providing a service, not a product that HECO owns (implication: after all, it's called the Grid SERVICE Purchase Agreement) It's the investors who have ownership of the devices/software, and they will have a financial interest in	Penalties for non-performance is clean and easy. Source code transfer is messy.

	<p>continuing to operate the devices. And if HECO takes over ownership, then the investor no longer has an interest in operating the resource...it would all be on HECO.</p> <p>Early on in this GSPA process, no provider will have a big chunk of MW, so barriers to entry must be low to attract investment.</p> <p>Feels like this monetary requirement is double counting risk. Shouldn't compensation for default cover these risks? (HECO executives feels that customer relationship and Company reputation are exceedingly more valuable, and source code plays in here in providing service)</p>	
12.2 Source Code	<p>Some of the types of assets that participate in a GSPA program maybe one of multiple values the asset is providing. A lot of other contractual obligations may exist separate from the program and, similarly to cobranding, there may be other values being provided to the customer. It may not be as simple as the company running the program/assets outside of the contract.</p>	
16.1 Participant Agreement	<p>They have a problem with "uniform" agreement within each class.</p> <p>Many of the participants in DERC operate... equipment in the same class but we offer different services... In the agreement with customers we don't have the option to list different services in the same class, there isn't any differentiation option.</p>	<p>Need ability to show what other end user services are a part of the participant services [sic?]</p>
20.6 Code of Conduct	<p>Often the contact with the customer is a building maintenance company or something similar, not the Supplier itself. (HECO had not considered that before and is open to revisiting)</p>	
20.4 Obligation of Participants (c) Dual Participant Registration	<p>One of the fears is the specific language sustained that dual participation of the same resource, does not specify of the same service, are we talking about the same service or all other services. (HE – The customer cannot willfully and knowingly enroll with two suppliers to provide the same service.)</p>	

22.3 Letter of Credit	Asks if HECO will add language to the paragraph re % of value of the contract (now it's blank) [For now HECO can't specify a percentage, but Noa is OK indicating that it will be a fixed percentage of value]	
22.3 Letter of credit	22.5 says continuous replenishment of the LOC amount if funds withdrawn. This seems to draw beyond the limit set in 22.4. (rich indicated HECO open to remedying with revised language)	
23.1 Term	<p>Many DERC members tend to have at least 10 year contracts. That is what the benchmark should be.</p> <p>Now that HECO has done two contracts, the Company can gauge the outcome of the first RFP, both number and quality of bids, and the pricing. Did the market tell HECO it wanted 10% or 100% of the available MW? Implication is that the 60 month term is not sufficient to get high quality, competitive bids.</p> <p>(Rich says that they unnaturally constrained themselves in 2017 by only opening up to shortlisted bidders from the prior RFP; so they don't have a good sense of the market now; it'll be the next iteration of the RFP that really tells HECO what the market can provide.)</p>	Put the terms into the Exhibits, since they may vary by the grid service type. Take out the 60 month from the core contract.
23.1 Term	This is a 60 month term does not include language on continuing the program at the end of the term.	We would like to see first right of refusal or other language that allows suppliers to avoid a new RFP at the end of a term. – said by DERC
15.8 No Extension of Term (under Force Majeure)	The 10 years starts on permission to operate, allows us to finance based on the term. The need is to know how many months you're going to get and if you don't know how long it's going to take to get up and running you can't set up finance on that. If we're trying to leverage for new customers and assets we're going to need to know.	

<p>3.7 Failure to meet contract capability (in liquidated damages section)</p>	<p>Contract is unusual in that it has hard milestones for enabling capacity. And penalties for being under.</p>	<p>Have a target for capacity (option) rather than a fixed ramp up rate. Would help to have flexibility to exceed ramp rate (up to a max).</p>
<p>20.5 Participant Survey</p>	<p>Hard to determine account numbers. Can HECO just use name and address, and then look up the account number. Makes it harder to recruit hard to reach customers if they have to share their information.</p>	
<p>20.5 Participant Survey</p>	<p>Alternatively recommend use of meter number as it is unchanging.</p>	
<p>20.1 Right and Obligations of both Parties (b) Co-branding</p>	<p>There is a difference how tenants approach service issues than electric services. A lot of our material, say on water heater maintenance, would be confused by cobranding with the company.</p>	