

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. )  
For Approval of General Rate Case )  
and Revised Rate Schedules/Rules. )  
\_\_\_\_\_ )

DOCKET NO. 2016-0328

ORDER NO. 35281

ADDRESSING VARIOUS PROCEDURAL MATTERS AND  
AMENDING STATEMENT OF ISSUES

PUBLIC UTILITIES  
COMMISSION

2018 FEB -9 P 3:45

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN ELECTRIC COMPANY, INC. ) Docket No. 2016-0328  
For Approval of General Rate Case ) Order No. **35281**  
and Revised Rate Schedules/Rules. )  
\_\_\_\_\_ )

ADDRESSING VARIOUS PROCEDURAL MATTERS AND  
AMENDING STATEMENT OF ISSUES

By this Order, the Public Utilities Commission ("commission"):<sup>1</sup> (1) grants the Consumer Advocate's Motion for Clarification of Order No. 35219, filed January 18, 2018,<sup>2</sup> and clarifies the scope of the Rebuttal Information Requests that may be filed by February 23, 2018, as well as the commission's

---

<sup>1</sup>The Parties to this docket are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO" or the "Company") and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62(a). In addition, the commission has granted Participant status to the DEPARTMENT OF DEFENSE ("DOD"), HONOLULU BOARD OF WATER SUPPLY ("BWS"), LIFE OF THE LAND ("LOL"), ENERGY FREEDOM COALITION OF AMERICA, LLC ("EFCA"), HAWAII PV COALITION ("HPVC"), and BLUE PLANET FOUNDATION ("Blue Planet").

<sup>2</sup>"Division of Consumer Advocacy's Motion for Clarification of Order No. 35219 Amending Procedural Order No. 34721 Filed on January 11, 2018; and Certificate of Service," filed January 18, 2018 ("CA Motion for Clarification").

scope of examination of the issue of HECO's return on equity ("ROE") during the remainder of this proceeding; (2) grants the DOD leave to file its Request for Leave to File a Third Set of Information Requests;<sup>3</sup> (3) grants the DOD's underlying Request to issue Information Requests to HECO regarding the Amended Statement of Issues beyond the January 19, 2018 deadline; (4) confirms BWS' withdrawal as a Participant from this proceeding; and (5) amends the Statement of Issues governing the remainder of this proceeding to reflect the effects of Order No. 35229, which modified Interim Decision and Order No. 35100.<sup>4</sup>

I.

BACKGROUND

On November 15, 2017, HECO and the Consumer Advocate submitted a Stipulated Settlement Letter<sup>5</sup> in this docket, in which they stipulated to an interim rate increase of approximately

---

<sup>3</sup>"DOD Request for Leave to File a Third Set of Information Requests to Hawaiian Electric Company After the Date Established by the Commission for Such Filing," filed January 23, 2018 ("DOD Request").

<sup>4</sup>Order No. 35229, "Modifying Interim Decision and Order No. 35100," filed January 18, 2018 ("Order No. 35229").

<sup>5</sup>"Hawaiian Electric Company, Inc. 2017 Test Year; Parties' Stipulated Settlement Letter Filed November 15, 2017," filed November 15, 2017 ("Settlement Agreement").

\$53,678,000, a roughly 3.5% increase in revenues at current effective rates.<sup>6</sup>

On December 15, 2017, the commission issued Interim Decision and Order No. 35100, in which it authorized an interim increase in rates to HECO of approximately 2.5%.<sup>7</sup> In pertinent part, the commission made a downward adjustment to HECO's interim revenue requirement to account for HECO's statement in its June 27, 2014 "abbreviated rate case" filing<sup>8</sup> that it intended to "forgo" an increase in revenues, including the pension and OPEB Tracking Regulatory Asset/Liability account balances that existed at that time (the "pension and OPEB Tracker Adjustment").<sup>9</sup>

In addition, the commission stated that, to the extent it had not singled out a component of the Settlement Agreement for further examination and/or adjustment, this was to be construed as acceptance by the commission of that component as presented in the

---

<sup>6</sup>See Letter From: J. Viola To: Commission Re: Docket No. 2016-0328 - Hawaiian Electric 2017 Test Year Rate Case; Hawaiian Electric's Statement of Probable Entitlement," filed November 17, 2017 ("HECO Statement of Probable Entitlement"), Attachment 1 at 1.

<sup>7</sup>Interim Decision and Order No. 35100, filed December 15, 2017 ("Interim D&O 35100").

<sup>8</sup>On June 27, 2014, in lieu of a traditional rate case application, HECO submitted what it characterized as an "abbreviated rate case filing," in which HECO stated its intent to "forgo" an increase in base rates based on a 2014 test year.

<sup>9</sup>See Interim D&O 35100 at 28-38.

Settlement Agreement and HECO's Statement of Probable Entitlement; provided, however, that the adjustments set forth in Interim D&O 35100 may necessitate corresponding adjustments to other components.<sup>10</sup> Also, the commission instructed the Parties to affirmatively notify the commission whether they wished, in light of findings in Interim D&O 35100, to withdraw from the Settlement Agreement and, if so, which issues they wished to address in the remainder of this proceeding and whether they waived their right to an evidentiary hearing.<sup>11</sup> Depending on the Parties' responses, the commission stated that it may modify the procedural schedule.<sup>12</sup>

On December 27, 2017, both HECO and the Consumer Advocate filed letters in which they stated that they did not wish to withdraw from the Settlement Agreement.<sup>13</sup>

---

<sup>10</sup>Interim D&O 35100 at 22 n. 56.

<sup>11</sup>Interim D&O 35100 at 63-64.

<sup>12</sup>Interim D&O 35100 at 64.

<sup>13</sup>Letter From: Consumer Advocate To: Commission Re: Docket No. 2016-0328 - In the Matter of the Application of Hawaiian Electric Company, Inc. For Approval of Rate Increases and Revised Rate Schedules and Rules - Statement of Probable Entitlement, filed December 27, 2017 (stating that the Consumer Advocate "does not intend to withdraw from any part of the Parties' Stipulated Settlement Letter, filed on November 15, 2017[.]"); and Letter From: J. Viola To: Commission Re: Docket No. 2016-0328 - Hawaiian Electric 2017 Test Year Rate Case; Notification Letter Regarding Stipulated Settlement, filed December 27, 2017 (stating that HECO "does not

On January 5, 2018, HECO filed its Rebuttal Testimonies, consistent with Procedural Order No. 34721.<sup>14</sup>

On January 11, 2018, the commission issued Order No. 35219, which, in pertinent part, amended the Statement of Issues governing the remainder of this proceeding, in light of Interim D&O 35100 and the Parties' stated desire to support the unaffected components of the Settlement Agreement.<sup>15</sup> As a result, the commission amended the Statement of Issue as follows:<sup>16</sup>

Amended Statement Of Issues

The issues governing the remainder of this docket are:

1. Whether the adjustments made by the commission to the interim rate adjustment stipulated in the Settlement Agreement, as set forth in Interim Decision and Order No. 35100, should be incorporated into the Final Decision and Order, including:
  - a. The adjustment regarding amortization of the excess pension contribution balance;

---

intend to withdraw from the Parties' Stipulated Settlement Letter, filed November 15, 2017 . . . at this time.")

<sup>14</sup>"Hawaiian Electric Company, Inc. 2017 Test Year; Rebuttal Testimonies, Exhibits, and Workpapers," filed January 5, 2018 ("HECO Rebuttal Testimony"); see also Procedural Order No. 34721, filed July 28, 2017 ("Procedural Order No. 34721"), at 10.

<sup>15</sup>See Order No. 35219 at 7-8.

<sup>16</sup>Order No. 35219 at 8-10.

- b. The adjustments regarding the pension and OPEB tracking account balances;
  - c. The regulatory asset proposed by HECO to address corresponding changes to accounts affected by the commission's adjustment to the pension and OPEB tracking account balances; and
  - d. Whether any adjustments should be made regarding the prudence of components of HECO's target revenue, including estimated increases to plant.<sup>17</sup>
- 2. The determination of HECO's ROE for purposes of the Final Decision and Order.<sup>18</sup>
  - 3. Whether HECO's On-Cost Accounting policy changes should be approved, on a prospective basis, and what, if any, credits or refunds should be required regarding the impacts of the unapproved accounting changes commencing in the year 2014.
  - 4. What, if any, modifications to the ECAC should be implemented, including, but not limited to:
    - a. The modifications proposed by Blue Planet;

---

<sup>17</sup>See Interim D&O 35100 at 46-48 and 55-57.

<sup>18</sup>Amended Issue No. 2 contained the following footnote: "At this time, the commission clarifies that it does not intend to limit its examination of HECO's ROE solely to the effects of decoupling, but may consider any relevant factors. Accordingly, the commission will assume that, unless stated otherwise, HECO's ROE will be an issue included for consideration in HECO's requested evidentiary hearing." Order No. 35219 at 9 n. 21.

- b. The revisions to the ECAC tariff language proposed in HECO's Statement of Probable Entitlement; and
  - c. Modifications to implement the separation and transfer of fuel and purchased energy costs from base rates into an appropriate energy cost adjustment mechanism.
5. What, if any, adjustments are necessary as a result of the recently-signed federal tax reform legislation (commonly known as the "Tax Cuts and Jobs Act")?

In addition, Order No. 35219 amended the procedural schedule set forth in Procedural Order No. 34721, in relevant part, by: (1) removing the January 12, 2018, deadline for "Last Day of Consumer Advocate's and Participants' Rebuttal IRs ('RIRs') to HECO;" (2) inserting a February 14, 2018, "Parties' and Participants' Simultaneous Testimonies, Exhibits, and Workpapers regarding the Amended Statement of Issues" deadline; and (3) inserting a February 23, 2018, "Last Day of the Parties' and Participants' Rebuttal IRs ('RIRs')" deadline.<sup>19</sup>

On January 18, 2018, the commission issued Order No. 35229, which modified Interim D&O 35100 to reflect HECO's acceptance of the commission's proposed alternative to the

---

<sup>19</sup>Compare Procedural Order No. 34721 at 10 with Order No. 35219 at 13.



Pension and OPEB Tracker Adjustment.<sup>20</sup> In sum, the commission modified Interim D&O 35100 by: (1) reversing the pension and OPEB Tracker Adjustment; (2) implementing a \$6 million downward adjustment to HECO's interim revenues, representing a hold-back to replace the customer benefits that were associated with the pension and OPEB Tracker Adjustment; (3) affirming that during the remainder of this proceeding, HECO will be required to provide supporting calculations to demonstrate that \$6 million is an appropriate figure for purposes of restoring to ratepayers the full benefit of the pension and OPEB Tracker Adjustment, and that this figure may be modified to ensure that the full effect of benefits are conveyed to ratepayers; (4) affirming that if HECO does not propose an acceptable alternative method by which to replace the \$6 million hold-back, the hold-back will be converted into an appropriate downward revenue adjustment to ensure full repayment to ratepayers of the restored pension and OPEB Tracker balances amounts; and (5) instructing HECO to file revised schedules, with written explanations and supporting exhibits, reflecting the adjustments made in Interim D&O 35100, as modified by Order No. 35229.<sup>21</sup>

---

<sup>20</sup>Order No. 35229, "Modifying Interim Decision and Order No. 35100," filed January 18, 2018 ("Order No. 35229").

<sup>21</sup>See Order No. 35229 at 10-12.

Also on January 18, 2018, the Consumer Advocate filed its Motion for Clarification, to which HECO responded on January 25, 2018.<sup>22</sup>

On January 23, 2018, the DOD filed its Request, which HECO opposed on January 30, 2018.<sup>23</sup>

On January 25, 2018, Blue Planet filed a letter in which it: (1) supports the Consumer Advocate's motion to clarify that the scope of RIRs include both HECO's Rebuttal Testimony and the Simultaneous Testimonies; and (2) supports the DOD's Request, to the extent they qualify as RIRs.<sup>24</sup>

---

<sup>22</sup>"Hawaiian Electric Company, Inc.'s Response to Division of Consumer Advocacy's Motion for Clarification of Order No. 35219 Amending Procedural Order No. 34721 Filed on January 11, 2018; and Certificate of Service," filed January 25, 2018 ("HECO Response to CA Motion for Clarification").

<sup>23</sup>"Hawaiian Electric Company, Inc.'s Memorandum in Opposition to the Department of Defense's Request for Leave to File a Third Set of Information Requests to Hawaiian Electric Company After the Date Established by the Commission for such Filings Filed on January 23, 2018; and Certificate of Service," filed January 30, 2018 ("HECO Opposition to DOD Request").

<sup>24</sup>Letter From: I. Moriwake To: Commission Re: Docket No. 2016-0328: Blue Planet Foundation's Comments on Motions, filed January 25, 2018 ("Blue Planet Comments"). As set forth in Order No. 34664, Participants are not permitted to file motions or responses concerning procedural or legal matters "except as specifically allowed by the commission." Here, Blue Planet did not seek leave from the commission to file its response on the above-referenced motions. As a result, the commission will not consider Blue Planet's Comments in resolving the motions that are the subject of this Order.

II.

DISCUSSION

A.

The Consumer Advocate's Motion For Clarification

The Consumer Advocate seeks clarification on the following matters: (1) the scope of RIRs due on February 23, 2018; and (2) the scope of examination related to relevant factors in determining HECO's final ROE.<sup>25</sup> Regarding the scope of RIRs, the Consumer Advocate seeks clarification as to whether RIRs may be issued regarding both HECO's Rebuttal Testimonies, Exhibits, and Workpapers, filed on January 5, 2018, and the Simultaneous Testimonies, scheduled to be filed on February 14, 2018, or if the scope of RIRs is limited to only the Simultaneous Testimonies.<sup>26</sup>

Regarding the scope of examination for HECO's ROE during the remainder of this proceeding, the Consumer Advocate notes that in Order No. 35219, the commission stated that its examination of HECO's ROE would not be limited solely to the effects of decoupling, but may consider any relevant factors.<sup>27</sup> The Consumer Advocate seeks clarification as to the "relevant factors," and whether additional discovery is

---

<sup>25</sup>See CA Motion for Clarification at 1-2.

<sup>26</sup>CA Motion for Clarification at 5.

<sup>27</sup>CA Motion for Clarification at 2 (citing Order No. 35219 at 9 n.21).

necessary.<sup>28</sup> In this regard, the Consumer Advocate states that "Order No. 35219 appears to establish that there may be factors relevant to the ROE not already discussed in the record and that the Parties may need to offer additional evidence."<sup>29</sup>

In response, HECO maintains that the RIRs should only address the Simultaneous Testimonies, which are to be filed on February 14, 2018. HECO states that "it appears in context that these [RIRs] were intended to focus on the newly filed Simultaneous Testimony and not Hawaiian Electric's prior January 5, 2018 rebuttal testimony."<sup>30</sup> In addition, HECO argues that this is further supported "by the fact that the February 23, 2018 'RIRs' may be issued not only to Hawaiian Electric, but also by Hawaiian Electric to the Consumer Advocate and Participants," whereas the prior January 12, 2018 RIR step only contemplated RIRs issued to HECO.<sup>31</sup>

---

<sup>28</sup>See CA Motion for Clarification at 3.

<sup>29</sup>CA Motion for Clarification at 3-4.

<sup>30</sup>HECO Response to CA Motion for Clarification at 4.

<sup>31</sup>HECO Response to CA Motion for Clarification at 4.

Scope Of RIRs

The Parties' Settlement Agreement and the commission's adjustments set forth in Interim D&O 35100, changed the nature and scope of issues initially established by the commission in Procedural Order No. 34721. The decision to remove the original January 12, 2018 "RIRs" date was in recognition of this fact, as the commission intended to re-focus this proceeding on the remaining, relevant issues. In addition, timing was a consideration, as, at the time the commission issued Order No. 35219 on January 11, 2018, the Parties' RIRs were due the next day, January 12, 2018. As a result, Order No. 35219 was intended to: (1) provide the Parties and Participants with an Amended Statement of Issues to guide their efforts during the remainder of this proceeding; and (2) provide for a meaningful opportunity for the Parties and Participants to respond to the Amended Statement of Issues.

Accordingly, the commission established a new February 14, 2018 deadline for Parties and Participants to simultaneously submit Testimony and Exhibits on the Amended Issues. The commission also established a new January 19, 2018 deadline for the Consumer Advocate and Participants to issue IRs on the Amended Statement of Issues to help develop their Simultaneous Testimonies. As a result of

these changes, the previous January 12, 2018 RIR deadline was no longer practical, as: (1) any such RIRs filed by January 12, 2018, would likely not have been developed with the Amended Statement of Issues in mind; and (2) given that the Amended Statement of Issues were not known until January 11, 2018 (when the commission issued Order No. 35219), there was no meaningful opportunity to issue RIRs with the Amended Issues in mind by the old January 12, 2018 deadline.

Likewise, the commission established a new deadline for RIRs of February 23, 2018. This was intended to recognize the Amended Statement of Issues and that more discovery was desirable to develop the record. Moving the RIR deadline to February 23, 2018, allows the Parties and Participants to develop their Simultaneous Testimonies first, so that they can be the subject of RIRs. However, this does not imply that only the Simultaneous Testimonies may be the subject of RIRs. While the Amended Statement of Issues was not issued until January 11, 2018, after HECO's Rebuttal Testimony was filed on January 5, 2018, HECO's Rebuttal Testimony still contains testimony and exhibits that may be relevant to the Amended Statement of Issues.

In essence, HECO's Rebuttal Testimony was developed after Interim D&O 35100, and respond to the adjustments and findings made therein. Similarly, the Amended Statement of Issues, is based on the results of Interim D&O 35100 (and related,

subsequent commission orders). As a result, there may be areas where HECO's Rebuttal Testimony overlaps with the Amended Statement of Issues, and such areas should be open to examination by the Consumer Advocate and, to the extent permitted by Order No. 35219, the Participants. That being said, if parts of HECO's Rebuttal Testimony are beyond the scope of the Amended Statement of Issues, examination into those areas is inappropriate.

Nothing in Order No. 35219 indicates that the change from the January 12, 2018 RIR deadline, to the new February 23, 2018 RIR deadline, was intended to exclude from its scope HECO's Rebuttal Testimony. Rather, as discussed above, the context of the extended deadline supports the assumption that the extended deadline was to allow Parties and Participants to address not only HECO's Rebuttal Testimony (as originally provided in Procedural Order No. 34721), but also the newly established February 14, 2018 Simultaneous Testimonies deadline. There is no indication that the establishment of the Simultaneous Testimonies deadline was intended to supplant the opportunity to examine HECO's Rebuttal Testimony.

However, as noted above, the scope of RIRs is bounded by the Amended Statement of Issues set forth in Order No. 35219, consistent with the commission's intent to "focus the discussion, efficiently direct resources, and avoid confusion" during the

remainder of this proceeding.<sup>32</sup> HECO's Rebuttal Testimony was filed on January 5, 2018, before the commission amended the Statement of Issues in Order No. 35219, issued on January 11, 2018. While the Consumer Advocate and Participants may issue RIRs to HECO regarding HECO's Rebuttal Testimony (in addition to HECO's Simultaneous Testimony, to be filed on February 14, 2018), such RIRs must be relevant to the Amended Statement of Issues and, regarding Participants, within their authorized scope of participation.<sup>33</sup>

Based on the above, the commission grants the Consumer Advocate's Motion to Clarify and clarifies that the scope of the February 23, 2018 RIR deadline set forth in the Amended Procedural Schedule in Order No. 35219 encompasses both HECO's Rebuttal Testimony, filed on January 5, 2018, as well as the Parties' and Participants' Simultaneous Testimonies, to be submitted on February 14, 2018.

2.

#### Scope Of ROE

The commission clarifies that its statement in Order No. 35219 regarding the consideration of "relevant factors"

---

<sup>32</sup>See Order No. 35219 at 8.

<sup>33</sup>See Order No. 35219 at 10-11.



in determining HECO's ROE is intended to notify the Parties that the commission is not limiting the determination of HECO's ROE to just the effects of decoupling, as set forth by the Parties in the Settlement Agreement.<sup>34</sup> This is intended to provide the Parties with notice that the commission will examine the record as a whole in determining HECO's ROE.<sup>35</sup>

B.

The DOD's Request

The DOD states that it did not timely submit IRs to HECO regarding the Amended Statement of Issues by January 19, 2018, because of complications arising from the then-impending federal government shut down.<sup>36</sup> According to the DOD, on the morning of January 19, 2018, the DOD's expert emailed IRs to the DOD's counsel, but the impending federal government shut down, set to begin at midnight on January 19, 2018, interfered with the normal business activities at the DOD's office and, as a result, the DOD did not discover this email until January 22, 2018.<sup>37</sup> The DOD

---

<sup>34</sup>See Order No. 35219 at 9 n.21.

<sup>35</sup>This is not to say that the record is insufficiently developed on this issue; it is merely to clarify that the commission is not limiting its analysis to the effects of decoupling.

<sup>36</sup>See DOD Request at 2.

<sup>37</sup>DOD Request at 2.

notes that the federal government did shut down on January 20, 2018.<sup>38</sup>

HECO opposes the DOD's Request on the grounds that: (1) the DOD's Request is beyond the scope of its participation; and (2) the DOD's Request fails to meet the "excusable neglect" standard set forth in HAR § 6-61-23(a)(2).<sup>39</sup>

Pursuant to Order No. 34664, Participants are not permitted to file motions or responses concerning procedural or legal matters "except as specifically allowed by the commission."<sup>40</sup> Given the circumstances of the DOD's Request, which HECO does not dispute (i.e., the impending shut-down of the federal government), the commission finds that there is good cause to allow the DOD to file its request for an extension of time. As an agency funded by the federal government, it is reasonable to assume that the impending government shut-down, and related preparations, resulted in confusion as the DOD prepared to deal with the potential consequences a shut-down would have on its operations.

---

<sup>38</sup>DOD Request at 2.

<sup>39</sup>HECO Opposition to DOD Request at 2-4.

<sup>40</sup>Order No. 34664, "(1) Certifying Completeness of Application; (2) Addressing Motions to Intervene; and (3) Instructing Hawaiian Electric Company, Inc. and the Consumer Advocate to Submit a Proposed Procedural Order," filed June 28, 2017 ("Order No. 34664"), at 78.

These events were beyond the control of the DOD and the commission does not believe it should be prejudiced as a result.

For similar reasons, the commission grants the DOD's Request to issue its IRs beyond the January 19, 2018 deadline.

HAR § 6-61-23(a)(2) provides:

(a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

(2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action on jurisdictional matters and where any order expressly provides that no enlargement shall be granted.

The impending shut-down of the federal government, the DOD's source of funding, and the associated planning and preparations, provide a reasonable basis for the DOD failing to see its consultant's email about HECO's IRs. Additionally, it is undisputed that the federal government did shut down on January 20, 2018; also, it appears that the DOD promptly reached out to HECO on January 22, 2018, about submitting the DOD's IRs.<sup>41</sup>

---

<sup>41</sup>See DOD Request at 2. The DOD states "Mr. Schubert did not discover the email in time to transmit them to HECO or notify the other Parties and Participants [sic] the afternoon of January 22, 2018." Id. This appears to indicate that Mr. Schubert

Accordingly, based on these circumstances, the commission finds that the DOD has demonstrated excusable neglect for failing to submit its IRs to HECO by the January 19, 2018, deadline, and is granted leave to submit them now.

C.

Withdrawal Of BWS

In Order No. 35219, the commission noted that the BWS has not provided any meaningful participation in this proceeding since being granted Participant status.<sup>42</sup> The commission indicated that it was inclined to remove BWS from this proceeding, but provided BWS with an opportunity to file a statement of position justifying why it should be allowed to continue its participation.<sup>43</sup> The commission instructed BWS to respond by January 22, 2018, and that failure to timely submit a position statement would be construed as a decision by BWS to withdraw from this proceeding.<sup>44</sup>

---

was unable to transmit the DOD's IRs to HECO until the afternoon of January 22, 2018. While not expressly clear in the DOD's Request, HECO, in its Opposition, does not contest this assertion.

<sup>42</sup>See Order No. 35219 at 11-12.

<sup>43</sup>Order No. 35219 at 12.

<sup>44</sup>Order No. 35219 at 12.

The commission did not receive a response from BWS by January 22, 2018. Accordingly, the commission concludes that BWS has decided to withdraw from this proceeding. BWS shall no longer be considered a Participant to this proceeding and shall be removed from the service list. BWS shall continue to be bound by Protective Order No. 34367, filed January 30, 2017, regarding confidential and/or restricted materials it may have received during its participation in this proceeding.

D.

Amending Statement Of Issues

In Order No. 35229, the commission modified Interim D&O 35100 in response to HECO's acceptance of the commission's proposed alternative to the pension and OPEB Tracker Adjustment originally set forth in Interim D&O 35100. As a result, the pension and OPEB Tracker Adjustment was reversed and, in its place, a \$6 million "hold-back" adjustment was established, for interim rate purposes, to represent the funds restored by the pension and OPEB Tracker Adjustment (during the remainder of this proceeding, HECO shall propose an alternative proposal that will return the same level of benefits to ratepayers

that ratepayers would have enjoyed under the pension and OPEB Tracker Adjustment).<sup>45</sup>

Accordingly, the Amended Statement of Issues, as set forth in Order No. 35219, shall be further amended as follows (deletions noted in ~~strikethrough~~ and additions noted in underline):

1. Whether, and to what extent, the adjustments made by the commission to the interim rate adjustment stipulated in the Settlement Agreement, as set forth in Interim Decision and Order No. 35100, and as modified by Order No. 35229, should be incorporated into the Final Decision and Order, including:

a. The adjustment regarding amortization of the excess pension contribution balance;

b. ~~The adjustments regarding the pension and OPEB tracking account balances;~~

The adjustment amount necessary to return to ratepayers the full effect of benefits related to the pension and OPEB Tracker Adjustment;

c. Whether, and to what extent, ~~t~~The regulatory asset proposed by HECO to address corresponding changes to accounts affected by the commission's adjustment to the pension and OPEB tracking account balances is appropriate in light of the effects of Order No. 35229; and

d. The appropriate mechanism to return to ratepayers the full effect of benefits related to the pension and OPEB Tracker Adjustment; and

---

<sup>45</sup>See Order No. 35229 at 10-11.

- de. Whether any adjustments should be made regarding the prudence of components of HECO's target revenue, including estimated increases to plant.
2. The determination of HECO's ROE for purposes of the Final Decision and Order.
  3. Whether HECO's On-Cost Accounting policy changes should be approved, on a prospective basis, and what, if any, credits or refunds should be required regarding the impacts of the unapproved accounting changes commencing in the year 2014.
  4. What, if any, modifications to the ECAC should be implemented, including, but not limited to:
    - a. The modifications proposed by Blue Planet;
    - b. The revisions to the ECAC tariff language proposed in HECO's Statement of Probable Entitlement; and
    - c. Modifications to implement the separation and transfer of fuel and purchased energy costs from base rates into an appropriate energy cost adjustment mechanism.
  5. What, if any, adjustments are necessary as a result of the recently-signed federal tax reform legislation (commonly known as the "Tax Cuts and Jobs Act")?

Consistent with Order No. 35219, the DOD may continue to address all of these amended issues.<sup>46</sup>

In addition, the commission reiterates that the amounts set forth in Interim D&O 35100, Order No. 35229,

---

<sup>46</sup>See Order No. 35219 at 10.

and HECO's approved interim schedules of operations are subject to continued examination during the remainder of this proceeding and may be modified as appropriate, and, pursuant to HRS § 269-16(d), to the extent HECO's interim rates have resulted in collection of revenues in excess of the revenues approved in the Final Decision and Order, these excess revenues will be refunded to customers, with interest.<sup>47</sup>

### III.

#### ORDERS

##### THE COMMISSION ORDERS:

1. The Consumer Advocate's Motion for Clarification is granted and the scope of: (A) the RIRs that the Parties and Participants may file by February 23, 2018; and (B) the commission's examination of HECO's ROE, are clarified as set forth above.
2. The commission grants the DOD leave to file its Request.
3. The DOD's Request to submit its IRs to HECO beyond the January 19, 2018 deadline is granted.

---

<sup>47</sup>See, e.g. Interim D&O at 20-22 (Section II.A., "Probable Entitlement").

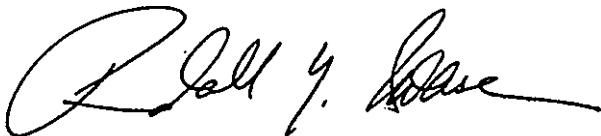


4. BWS is considered to have withdrawn from this proceeding and shall no longer be considered a Participant or receive service of filings made in this proceeding.


5. The Amended Statement of Issues governing the remainder of this proceeding, as established in Order No. 35219, is further amended as set forth above.

DONE at Honolulu, Hawaii FEB - 9 2018.

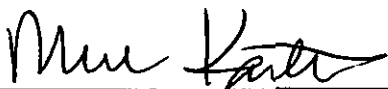
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Randall Y. Iwase, Chair

By   
Lorraine H. Akiba, Commissioner

By   
James P. Griffin, Commissioner

APPROVED AS TO FORM:

  
Mark Kaetsu  
Commission Counsel

2016-0328.ljk

CERTIFICATE OF SERVICE

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

DEAN NISHINA  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P.O. Box 541  
Honolulu, HI 96809

DEAN K. MATSUURA  
MANAGER, REGULATORY RATE PROCEEDINGS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P.O. Box 2750  
Honolulu, HI 96840-0001

JAMES J. SCHUBERT  
ASSOCIATE COUNSEL  
NAVAL FACILITIES ENGINEERING  
COMMAND PACIFIC (09C)  
JBPHH, HI 96860-3134

Attorney for the DEPARTMENT OF DEFENSE

ERNEST Y.W. LAU  
MANAGER AND CHIEF ENGINEER  
HONOLULU BOARD OF WATER SUPPLY  
630 South Beretania Street  
Honolulu, HI 96843

HENRY Q. CURTIS  
VICE PRESIDENT FOR CONSUMER ISSUES  
LIFE OF THE LAND  
P.O. Box 37158  
Honolulu, HI 93837-0158

Certificate of Service

Page 2

CARLITO P. CALIBOSO  
DAVID A. MORRIS  
YAMAMOTO CALIBOSO  
1100 Alakea Street, Suite 3100  
Honolulu, HI 96813

Attorneys for ENERGY FREEDOM  
COALITION OF AMERICA, LLC

COLIN A. YOST  
677 Ala Moana Boulevard, Suite 609  
Honolulu, HI 96813

Attorney for HAWAII PV COALITION

ISAAC H. MORIWAKE  
KYLIE W. WAGER CRUZ  
EARTHJUSTICE  
850 Richards Street, Suite 400  
Honolulu, HI 96813

Counsel for BLUE PLANET FOUNDATION