ORIGINAL

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC For approval to modify the RBA Rate Adjustment in Its Revenue Balancing Account Provision Tariff	Transmittal No 16-01 (Decoupling)
In the Matter of the Application of HAWAI`I ELECTRIC LIGHT COMPANY, INC For approval to modify the RBA Rate Adjustment in Its Revenue Balancing Account Provision Tariff	Transmittal No 16-02 (Decoupling)
In the Matter of the Application of MAUI ELECTRIC COMPANY, LIMITED For approval to modify the RBA Rate Adjustment in Its Revenue Balancing Account Provision Tariff	Transmittal No 16-03 (Decoupling)

DIVISION OF CONSUMER ADVOCACY'S STATEMENT IN OPPOSITION TO THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR CALENDAR YEAR ACCRUAL OF RATE ADJUSTMENT MECHANISM REVENUES FILED ON NOVEMBER 1, 2016

Consistent with Hawaii Administrative Rules ("HAR") § 6-61-41(c), which provides that "[a]n opposing party may serve and file counter affidavits and a written

statement of reasons in opposition to [a] motion not later than five days after being served [with] the motion," the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate") files this statement in opposition to the Hawaiian Electric Companies'[1] Motion For Calendar Year Accrual Of Rate Adjustment Mechanism Revenues filed on November 1, 2016 ("Hawaiian Electric Companies' Motion" or "Motion") [2]

The Hawaiian Electric Companies' Motion should be rejected by the Commission because

- The Hawaiian Electric Companies seek to re-litigate an issue already decided by the Commission,
- The requested relief violates the Stipulated Settlement Agreement approved by the Commission in the Hawaiian Electric 2009 test year rate case,
- The accounting arguments asserted within the Hawaiian Electric Companies' Motion are unfounded and inconsistent with prior Commission orders as well as the Hawaiian Electric Companies' own audited financial statements, and
- The Hawaiian Electric Companies have not proven any ongoing financial need for the proposed relief

The basis for the Consumer Advocate's position is discussed below

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1 The designation "Hawaiian Electric Companies" refers to Hawaiian Electric Company, Inc ("Hawaiian Electric"), Hawai'i Electric Light Company, Inc ('Hawai'i Electric Light"), and Maui Electric Company, Limited ("Maui Electric") collectively

2 The Hawaiian Electric Companies' Motion For Calendar Year Accrual includes the Hawaiian Electric Companies' Motion, Memorandum In Support Of Motion, Attachments A and B to the Motion, and the Affadavit [(sic)] of Tayne S Y Sekimura

I. THE HAWAIIAN ELECTRIC COMPANIES SEEK TO IMPROPERLY RE-LITIGATE AN ALREADY DECIDED ISSUE.

A. THIS ISSUE IS WELL DOCUMENTED AND THE COMMISSION HAS ALREADY RULED AGAINST THE HAWAIIAN ELECTRIC COMPANIES ON THE RELIEF REQUESTED.

The Hawaiian Electric Companies argue that the proposed "current accrual method is consistent with accrual accounting because it matches the revenues associated with the new assets serving customers "[3] and that

> the RAM determines an incremental revenue amount for a specific calendar year or partial year, in the case of a rate case test year) [(sic)] that the Company should be allowed
>
> The determination of the amount of revenues is based on the adjusted revenue requirement for the calendar year It was intended to reduce the regulatory lag in getting cost recovery of significant investments [made by the Hawaiian Electric Companies] [4]

The Consumer Advocate notes that there is nothing new in these arguments as they are the same arguments presented in the Hawaiian Electric Companies' filings connected to Hawaiian Electric Transmittal No 11-02 filed on March 31, 2011 ("Transmittal No 11-02") [5]

In Transmittal No 11-02 (the very first review of the Revenue Adjustment Mechanism ("RAM") and the Revenue Balancing Account ("RBA") put into place related to the Hawaii Public Utilities Commission's ("Commission's") investigation into decoupling in Docket No 2008-0274), the Consumer Advocate and the Hawaiian

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3 Memorandum in Support of Motion, at 5

4 Memorandum in Support of Motion, at 6

5 See e g , Transmittal No 11-02 Decoupling RBA Rate Adjustment Tariff Filing Hawaiian Electric's Comments On Attachment 5 ("Hawaiian Electric's Comments On Attachment 5") filed on April 21, 2011

Electric Companies disagreed, among other things, over whether the RAM and the RBA approved by the Commission in Docket No 2008-0274 allowed the Hawaiian Electric Companies[6] to recognize, by advance accrual, RAM revenue increases prior to June 1, 2011[7] The Hawaiian Companies note that, "[d]uring the course of the docket reviewing the design of the decoupling mechanism (Docket No 2008-0274), there was explicit discussion as to when RAM revenues for a specific year would first be recognized for financial reporting purposes," and claim that, "the understanding was that an accrual method would be used" to recognize those RAM revenues[8] However, the Hawaiian Electric Companies then conveniently fail to acknowledge that this issue, including the prior "explicit discussion" now cited, was thoroughly examined by the Commission and resolved by the order that denied the advance accrual of RAM revenues that is now again being requested by the Hawaiian Electric Companies in its Motion – i e , the Commission's Order Regarding Attachment 5 And Directing HECO To File Tariff Amendments ("Attachment 5 Order") issued on May 20, 2011 in Transmittal No 11-02 The Hawaiian Electric Companies should not be allowed to re-litigate this same (and stale) issue as there are no changed circumstances to justify reconsideration of the Attachment 5 Order now

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6 More specifically, Hawaiian Electric with respect to Transmittal No 11-02 (as Hawaiian Electric filed Transmittal No 11-02 on Hawaiian Electric's behalf only)

7 See generally Division of Consumer Advocacy's Comments On Attachment 5 To Hawaiian Electric Company, Inc 's Transmittal No 11-02 ("Consumer Advocate's Comments On Attachment 5") filed on April 21, 2011 and Division of Consumer Advocacy's Statement Of Position On Hawaiian Electric Company, Inc 's Transmittal No 11-02 filed on April 29, 2011

8 Memorandum in Support of Motion, at 6 (citing materials set forth in Attachment B)

In setting forth its position in the Division of Consumer Advocacy's Comments On Attachment 5 To Hawaiian Electric Company, Inc.'s Transmittal No 11-02 ("Consumer Advocate's Comments On Attachment 5"), for example, the Consumer Advocate noted, in exhaustive detail, that

> At page 8 of its Application, [Hawaiian Electric] states [that], "Although the RAM Revenue Adjustment for the test year is set to zero from the date the interim rates become effective, the RBA Rate Adjustment, which begins June 1, must still be recalculated and reset to recover the RAM Revenue Adjustment accrued between March 1, 2011, the effective date for revenue decoupling and the effective date of the RBA and RAM tariff provisions, and the date that interim rates become effective Hawaiian Electric will revise the RBA Rate Adjustment to reflect the new RAM Revenue Adjustment as a result of an interim decision in a rate case in the manner illustrated in Attachment 5." According to [Hawaiian Electric], this proposed "recalculation" involves a six step process listed at page 2 of Attachment 5, involving another set of calendar days proration calculations [Hawaiian Electric] provides no references into the RBA or RAM tariffs or any materials filed in Docket No 2008-0274 for this six step process or the daily prorate calculations set forth therein The Consumer Advocate submits that these calculations are not supported by the record in the decoupling proceeding and are wholly unnecessary given the clearly defined effective dates for RAM revenue changes [9]

In Transmittal No 11-02 Decoupling RBA Rate Adjustment Tariff Filing Hawaiian Electric's Comments On Attachment 5, the Hawaiian Electric Companies raised the same advance accrual arguments the RAM and RBA provisions approved by the Commission in Docket No 2008-0274, stating, in relevant part, that

> In addition, the Companies' position tracks the discussion of accrual accounting for the RAM that took place at the panel hearing for the decoupling proceding Again, the Consumer Advocate's position does not The discussion centered on when RAM revenues for a specfic year would first be recognized for financial reporting purposes – when the RAM adjustment filing was made on March 31st (so the revenues would be included in first quarter revenues), or when RAM collection for a specific year began (which would be June 1st if the RAM adjustment was not

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9 Consumer Advocate's Comments On Attachment 5, at 10

suspended, or later if it was) There was no issue as to whether the revenues would accrue back to the beginning of the year once the revenues were recognized The discussion was further clarified as requested in the hearings as part of a response to Question 5 in the Companies' July 13, 2009 filing The Companies were not the only parties that understood and agreed to this concept Haiku Design and Analysis discussed this concept in its Opening and Reply Briefs No one suggested, as the Consumer Advocate apparently does now, that the Company's collection (as opposed to accrual) of the RAM revenues would be simply cut off once there is an interim order in a rate case [10]

In Attachment 5 Order issued on May 20, 2011, the Commission concluded, in relevant part, that

> By this Order, the [C]omssion approves the position of the [Consumer Advocate] on whether [the Hawaiian Electric Companies'[11]] decoupling tariffs allow for the accural and recovery of [RAM] revenues for months prior to the effective date of revisions to the [RBA] Tariff
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> The [C]ommission thoroughly examined the Parties' position statements on Attachment 5 to [Hawaiian Electric's] Transmittal No 11-02, and also the relevant parts of the record in the [C]ommission's decoupling docket, Docket No 2008-0274 After further balancing the policy implications underlying both positions, the [C]omission agrees with the Consumer Advocate's approach, which reduces, but does not entirely eliminate regulatory lag, and is administratively simpler to implement
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> Thus, to further clarify, the Target Revenues applied monthly in the RBA Tariff shall not be retroactively adjusted as a result of later amendments to Authorized Base Revenues or the RAM Revenue Adjustment The Authorized Base Revenues and RAM Revenue Adjustment ordinarily approved starting June 1 of a RAM Period shall not be applied to the RBA Tariff in the RAM Period months prior to June 1 [12]

Thus, the Commission unequivocally adopted the Consumer Advocate's recommendation and set forth the established procedure that the accrual would not be

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[10] Hawaiian Electric's Comments On Attachment 5, at 4

[11] See note 6, above

[12] Attachment 5 Order, at 1-2

reflected as of January 1, as the Hawaiian Electric Companies now seek to re-litigate in the Hawaiian Electric Companies' Motion

B. THE CURRENT TEMPORARY ACCRUAL METHOD WAS THE RESULT OF A BUNDLED SETTLEMENT AGREEMENT PERTAINING TO NUMEROUS ISSUES AND THE HAWAIIAN ELECTRIC COMPANIES' PROPOSAL IS VIOLATING THAT SETTLEMENT.

In Docket No 2008-0083, the Consumer Advocate and the Hawaiian Electric Companies, as part of a stipulated settlement agreement in that docket (Docket No 2008-0083) ("Settlement Agreement"), decided to voluntarily depart from the directions of the Attachment 5 Order with respect to Hawaiian Electric only in order to "simplify[] and expedit[e] the affected proceedings " in that docket [13]

Per the Settlement Agreement,

> - For **only the 2014, 2015 and 2016 RAM Periods, Hawaiian Electric** will be allowed to record the 2014, 2015 and 2016 RAM incremental revenues for the January 1 through December 31 calendar year (once Hawaiian Electric is able to assess the amount), and collect the RAM incremental revenues through the RBA Rate Adjustment (which includes the RAM Revenue Adjustment) from June 1 of each year to May 31 of the following year [14] (Emphasis added)

Accoridng to the Settlement Agreement, "[a]t the conclusion of that period, the current RAM provisions will again apply in accordance with the Amended Joint Proposal approved by the Final Decision and Order issued in the decoupling proceeding "[15]

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[13] Letter from Patsy H Nanbu, Vice President, Regulatory Affairs, Hawaiian Electric, to the Commission, Docket No 2008-0083 (January 28, 2013)

[14] Letter from Patsy H Nanbu, Vice President, Regulatory Affairs, Hawaiian Electric, to the Commission, Docket No 2008-0083, at 2 (January 28, 2013)

[15] Letter from Patsy H Nanbu, Vice President, Regulatory Affairs, Hawaiian Electric, to the Commission, Docket No 2008-0083, at 2 (January 28, 2013)

However, the accelerated accrual was only one item of an overall settlement agreement In seeking to make permanent the accelerated accrual, the Hawaiian Electric Companies are not abiding by the Settlement Agreement The Commission should not grant the Hawaiian Electric Companies' requested relief because it is an improper departure from the Settlement Agreement If serious consideration of the Hawaiian Electric Companies' requested relief will occur, the entire Settlement Agreement should be re-visited, with offsetting benefits of value to ratepayers added It is unclear why, even if any merit is to be assigned to the estimated financial reporting impact, the Hawaiian Electric Companies would choose to jeopardize the Settlement Agreement and face greater financial uncertainty related to the recoverability of the costs associated with Campbell Industrial Park CT-1 unit ("CIP CT-1") and the Customer Information System ("CIS") system

C. IT IS UNCLEAR WHETHER THE REQUESTED RELIEF WOULD REQUIRE REVISITING THE ENTIRE DECOUPLING MECHANISM.

As already mentioned, the Commission has already ruled upon the requested relief as part of the first annual decoupling filing in the Attachment 5 Order The proposal to make permanent the temporary exception that was granted as part of the Settlement Agreement (to permit RAM acceleration accurals for Hawaiian Electric while expanding such treatment to the all of the Hawaiian Electric Companies) may require revisiting all of the issues regarding decoupling and the current decoupling mechanism As will be noted in the detailed positions that were filed by the Consumer Advocate and the Hawaiian Electric Companies, the issues surrounding the requested relief involve a number of different issues and sub-issues that touch upon the

decoupling mechanism While the Consumer Advocate agreed to a temporary three-year exception for Hawaiian Electric only for purposes of the Settlement Agreement, that agreement should not be mistaken for an admission that accelerating the accrual of RAM revenues is a preferred or appropriate ongoing method and that the proposal to make permanent the temporary exception should be approved

In fact, the Consumer Advocate contends that if the Commission believes that any aspect of the decoupling mechansim should be modified, the Consumer Advocate urges the Commission to conduct a comprehensive review, such as in Docket No 2013-0141, and not in some piecemeal fashion, such as the Hawaiian Electric Companies now seek in their filing Such piecemeal ratemaking is generally ill-advised and can often lead to results that are not in the public interest Similar to the observation in the preceding section, it is unclear why the Hawaiian Electric Companies wish to initiate a proceeding that could result in a renewed analysis of whether the current decoupling mechanism is in the public interest Instead, the Consumer Advocate urges the Commission to deny the Hawaiian Electric Companies' proposal presented in the Hawaiian Electric Companies' Motion

If the Commission denies the Hawaiian Electric Companies' requested relief, once the 2016 RAM Period elapses as specified in the Settlement Agreement, the temporary acceleration process granted for Hawaiian Electric only would revert back to being governed by the Attachment 5 Order The Settlement Agreement states, in pertinent part, that

> The agreements set forth in [the Settlement Agreement] are for the purpose of simplifying and expediting the affected proceedings, and represent a negotiated compromise of the matters agreed upon, and do

not constitute an admission by any party with respect to any of the matters agreed upon herein

The Parties shall support and defend this Stipulated Settlement [Agreement] before the Commission If the Commission adopts an order approving all material terms of this Stipulated Setltement [Agreement], the Parties will also support and defend the Commission's order before any court or regulatory agency in which the order may be at issue [16]

The Hawaiian Electric Companies claim that the ability to earn a "fair return will be significantly impaired" if this temporary relief for shareholders under the Settlement Agreement is not made permanent, indicating a confidential amount of "net impact to [the] net income" of the Hawaiian Electric Companies [17] What is ignored in this argument is the fact that Hawaiian Electric realized a comparable one-time benefit to net income at the front-end of the three-year temporary RAM accrual relief period prescribed in the Settlement Agreement with full knowledge that, at the expiration of this temporary period, the RAM accruals would reverse with negative income impacts for the Hawaiian Electric Companies [18] It is disingenuous and unfair to ratepayers for the Hawaiian Electric Companies to have taken the temporary financial benefits as part of the Settlement Agreement in 2014 and now argue that the always expected payback upon reversal of the RAM accruals in 2017 is now unreasonable

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16 Letter from Patsy H Nanbu, Vice President, Regulatory Affairs, Hawaiian Electric, to the Commission, Docket No 2008-0083, at 3-4 (Jan 28, 2013)

17 Memorandum in Support of Motion, at 3

18 See Hawaiian Electric Companies' response to Commission Informal Information Request in Tariff Transmittal Nos 16-01, 16-02 and 16-03 dated November 1, 2016, Attachment 1, page 4, "In the transition back to the lagged treatment of revenue recognition in 2017, where revenue is recorded when billed the accounting treatment will be reversed "

II. THE HAWAIIAN ELECTRIC COMPANIES' ARGUMENTS SHOULD NOT BE GIVEN WEIGHT.

In the Hawaiian Electric Companies' Motion, the Hawaiian Electric Companies offer a number of arguments that are not credible and the Commission should not assign weight to those assertions made by the Hawaiian Electric Companies

A. THE CURRENT TEMPORARY METHOD MAY BE CONSISTENT WITH ACCRUAL ACCOUNTING BUT SO IS THE ORIGINAL, COMMISSION APPROVED METHOD.

A significant portion of the Hawaiian Electric Companies' Motion attempts to persuade the Commission that the current temporary method reflects more proper accrual accounting and, by implication, the original Commission approved method (now labeled in the pejorative as "lagged" accounting) may not reflect proper accrual accounting It should be made clear that the Consumer Advocate does not accept that the pre-Settlement Agreement RAM accounting method is in any way inconsistent with accrual accounting It should also be made clear that the Commission approved method is consistent with accrual accounting

Further, the Hawaiian Electric Companies seek to convince the Commission that current temporary method is consistent with the intent to implement decoupling to support Hawaii's clean energy transition The Consumer Advocate agrees that decoupling is a tool that can help to address the impacts that can occur from certain clean energy efforts, such as energy efficiency and renewable distributed generation, whereby utility electricity sales may be adversely affected However, it should be made clear that decoupling in various forms can help to mitigate the potential adverse impacts on utility electricity sales, not just the current temporary accrual method In fact, while

the Hawaiian Electric Companies have asserted that the current temporary method is consistent with "the original intent of decoupling,"[19] the Commission's intent regarding decoupling has been made clear in their decision and orders in Docket Nos 2008-0274 and 2013-0141 as well as in the Attachment 5 Order The Hawaiian Electric Companies' attempts to re-litigate this issue in a piecemeal fashion should be denied

B. THE ASSERTED MISMATCH OF RAM REVENUE RECOGNITION SHOULD NOT BE GIVEN WEIGHT.

Along with their efforts to convince the Commission of what the original intent of decoupling was, the Hawaiian Electric Companies appear to be asserting that the Commission approved method is somehow inferior to the current temporary method The difference in regulatory lag between the two methods is not significant, whereas the Commission approved method does allow the Commission and the Consumer Advocate more certainty by allowing regulatory review to occur in a timely fashion This issue was already litigated and decided in the Commission's Attachment 5 Order and does not bear a complete restatement of those earlier arguments

The Consumer Advocate points out, however, two salient points First, the most significant reduction in regulatory lag results from having a decoupling mechanism in place In the absence of a decoupling mechanism and a reversion to reliance on only rate cases, the regulatory lag would be greater as compared to having any form of a decoupling mechanism in place The Hawaiian Electric Companies' focus on the relatively small regulatory lag instead of on more weighty matters such as how to push

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[19] See, e g , Hawaiian Electric Companies' Motion, at 5

operating and maintenance costs down, cost-effectively improving their project management performance to ensure that plant in service items reflect reasonable final costs, and addressing concerns with the cost-effective integration of renewable energy, to name a few examples, should earn much more attention

Another observation is that some of the Hawaiian Electric Companies' own accounting practices result in a form of lag in cost recovery and a potential mismatch of revenues and costs One such example is the Hawaiian Electric Companies' accounting practice of first recognizing depreciation expense for an item in the year following the in-service date This clearly results in a lag and also creates a situation where, in the year following retirement of any plant-in-service item, theoretically, the Hawaiian Electric Companies will still be recovering depreciation expense for an item that was already retired

The only new argument is the recognition that the RAM has become more conservative and that the renewable portfolio standards ("RPS") have become more ambitious The Consumer Advocate agrees that the RAM has become more conservative as a result of the Commission's decision in Docket No 2013-0141 and that the goals of the RPS have become more ambitious than in 2011 The Hawaiian Electric Companies have not shown, however, how modification of the RPS goals should affect the appropriate accruals associated with the decoupling mechanism, which was the result of a recent comprehensive review in Docket No 2013-0141, nor justify a piecemeal review of the current temporary accrual method which could have been reviewed as part of Docket No 2013-0141 In the absence of a compelling justification, the Hawaiian Electric Companies' assertions should not be given weight

III. THE HAWAIIAN ELECTRIC COMPANIES HAVE OFFERED DISINGENUOUS ARGUMENTS.

A. THE ARGUMENTS RELATED TO THE CAPITAL MARKET'S REACTION ARE MISLEADING.

The Hawaiian Electric Companies' constant refrain that the capital markets will view certain regulatory actions (or inactions) as a negative sign and could result in a credit rating downgrade is wearisome The Hawaiian Electric Companies constant warnings with no credible support will, at some point, be reminiscent of the boy who cried wolf and no attention to those claims will be given, even if warranted The Consumer Advocate acknowledges that there are regulatory actions that could result in adverse credit rating agency actions and the Commission should carefully weigh those types of actions

In this instance, however, the Consumer Advocate contends that the Hawaiian Electric Companies' assertions do not bear weight and should be ignored It should be made clear that the current temporary accrual method is the result of the Settlement Agreement In the Settlement Agreement, it was patently clear that the current method would be temporary and end as of December 2016 Thus, it cannot be argued that the end of the current temporary method was unexpected or unlikely As any expert knows, the efficient market hypothesis posits that it is impossible to consistently beat the market because, in an efficient market, the existing share prices will always reflect all available relevant information Thus, the basis for the temporary earnings "bump" resulting from the current temporary accrual method was the result of an agreement and that information was made available to the credit markets Thus, it is misleading to assert that the market was unaware of this fact and/or misleading to assert that the market did

not already take the temporary nature of the current method in current credit ratings To assert otherwise would require the Commission to believe that either the information was withheld from the market, which it was not, or that the market either ignored or did not understand the information – neither of which is likely

The Consumer Advocate also notes that the Hawaiian Electric Companies have offered select quotes from credit rating agencies to ostensibly support their assertions However, those quotes should be taken in the proper context and given appropriate weight For instance, on page 9 of the Hawaiian Electric Companies' Motion, they quote Standard & Poor's as saying

> We could lower the ratings on HEI and its utility subsidiaries over the next 12 to 24 months if business risk increases either due to **regulatory developments** that complicate the company's ability to fully recover invested capital or **inability to deliver timely and on-budget performance for large projects** which would also lead to weaker financial performance with FFO to debt that is consistently below 13% (emphasis added)

The Commission should note that, in this offered quote, the two identified factors are 1) regulatory developments that may complicate the ability to fully recover invested capital, or 2) the Hawaiian Electric Companies' ability to complete large capital projects on time and on budget As already discussed, the termination of the current temporary method is not a novel regulatory development At the time the current method was granted, the temporary nature of the method was already known Allowing the termination to occur, as agreed upon and approved by the Commission, would not be a surprise and certainly would not qualify as a new development Further, it would not jeopardize the ability to recover investments, the reversion slightly affects the timing of recovery not the amount that is authorized for recovery

Seeking to upend the Settlement Agreement in such a piecemeal fashion and not weighing the risks of the Commission seeking to revisit the decoupling mechanism in a comprehensive manner does not reflect sound decision-making Additionally, the credit rating agency is clearly signaling to the Hawaiian Electric Companies' management that they need to focus on their own practices to ensure that they can demonstrate sound business management Thus, as mentioned earlier, the unwarranted effort and focus of the Hawaiian Electric Companies' on this matter is questionable

B. ANY ISSUES WITH EARNINGS CONSISTENCY SHOULD HAVE BEEN ANTICIPATED.

In the Hawaiian Electric Companies' Motion, they assert preservation of the current temporary method will be viewed favorably by investors since preservation of the current temporary method will result in more consistent levels of earnings As mentioned earlier, however, the current temporary method was the result of the Settlement Agreement, wherein the Hawaiian Electric Companies sought the authority to temporarily accelerate the accrual If the Hawaiian Electric Companies were so concerned about the possible impacts of the termination of the temporary authority, it should have stated so at the time of the settlement discussions If there is any validity to the possible downgrading of the Hawaiian Electric Companies' credit rating due to the termination of the current temporary method, the Consumer Advocate would not have allowed that term to be part of the Settlement Agreement

Additionally, if the Consumer Advocate knew that the Hawaiian Electric Companies were going to seek to make permanent the current, temporary accrual method before the end of the temporary period, the Consumer Advocate would have

been unlikely to allow the current temporary method as part of the Settlement Agreement The Consumer Advocate entered into the Settlement Agreement and has not sought to depart from the terms The Hawaiian Electric Companies' Motion, however, is viewed as an effort to depart from the Settlement Agreement and should not be allowed

C. THE HAWAIIAN ELECTRIC COMPANIES CLAIM THAT EARNINGS WILL BE ADVERSELY AFFECTED BY THE TERMINATION OF THE CURRENT TEMPORARY METHOD BUT IGNORES ITS REPORTED EARNINGS.

The Hawaiian Electric Companies have asserted that, if the current temporary method is allowed to terminate, that their earnings will be adversely affected, their ability to earn their authorized rate of return will be jeopardized, and the credit rating agencies may take action The Consumer Advocate notes that, in the Hawaiian Electric Industries, Inc Form 8-K released November 4, 2016, the results of operations for the third quarter of 2016 is very positive There are a number of contributing factors, such as the one-time increase related to the recent termination of the NextEra Energy, Inc merger proposal Even in the absence of the one-time impacts, it appears that the earnings would still reflect positive results

Thus, the Hawaiian Electric Companies' efforts to persuade the Commission that the known one-time, impact of the termination of the current temporary accrual method will somehow cause the credit rating agencies to take negative action seems specious That is, even if there were any concerns with the known termination of the current temporary method, the contribution of the one-time impact of the merger termination fee should be sufficient to assuage those concerns

D. THE HAWAIIAN ELECTRIC COMPANIES HAVE ACKNOWLEDGED THAT THE IMPACT OF THE CURRENT TEMPORARY METHOD AFFECTS ITS FINANCIAL ACCOUNTING.

The Hawaiian Electric Companies have offered different assertions at various times to support their objectives In the Hawaiian Electric Companies' Motion, they assert that allowing the termination of the current temporary method will result in lower customer RAM payments This assertion is illustrated by page 1 of Attachment A to the Hawaiian Electric Companies' Motion

The Consumer Advocate has not had the opportunity to fully vet the assertions related to the amount of revenue collection in each of the four scenarios that are posted on page 1 of Attachment A It is curious that the RAM collected in A(1), which should have had the benefit of the Settlement Agreement, differs significantly from D(1), which apparently reflects the RAM collections with Settlement (without preservation of the current temporary method) Additionally, the Consumer Advocate is aware of various instances where the Hawaiian Electric Companies have acknowledged that the primary benefit of the current temporary method is for financial reporting purposes, where the Hawaiian Electric Companies were allowed to reflect revenue accrual on an earlier basis due to the current temporary method, but that the consumers would not pay more [20] However, in the Hawaiian Electric Companies' Motion, they seem to be asserting that there will be a difference in the net amount of revenues that will be collected from customers The variability of the Hawaiian Electric Companies' message – at times asserting that there is no net impact to customers and also saying that the

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[20] See, e g , cross-examination of Ms Tayne Sekimura in Docket No 2015-0022, Tr at 1636, ln 7 - 22

Hawaiian Electric Companies will take a net earnings hit – raises many questions regarding the veracity of the statements at various times

The Hawaiian Electric Companies' efforts to make permanent the current temporary method and to extend it for Hawaii Electric Light and Maui Electric should be denied

IV. SUMMARY.

For the reasons stated above, the Consumer Advocate urges the Commission to deny the Hawaiian Electric Companies' Motion, which seeks to make permanent the current temporary method of accrual as well as to extend the current temporary method of accrual to Hawaii Electric and Maui Electric The Hawaiian Electric Companies seek to re-litigate an issue already decided by the Commission and has not offered any new, compelling evidence or arguments

DATED Honolulu, Hawaii, November 7, 2016

Respectfully submitted,

By _____
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LANE H TSUCHIYAMA
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DIVISION OF CONSUMER ADVOCACY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S STATEMENT IN OPPOSITION TO THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR CALENDAR YEAR ACCRUAL OF RATE ADJUSTMENT MECHANISM REVENUES FILED ON NOVEMBER 1, 2016** was duly served upon the following parties, by personal service, hand delivery, and/or U S mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d)

DEAN K MATSUURA
MANAGER, REGULATORY RATE PROCEEDINGS
Hawaiian Electric Company, Inc
P O Box 2750
Honolulu, Hawaii 96840

1 copy
by hand delivery

DATED Honolulu, Hawaii, November 7, 2016

Trans Nos 16-01, 16-02, 16-03