

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
335 Merchant Street, Room 326
Honolulu, Hawaii 96813
Telephone (808) 586-2800

FILED

2016 NOV 18 P 3:42

PUBLIC UTILITIES
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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

In the Matter of the Application of)
)
HAWAII ELECTRIC LIGHT COMPANY, INC) Transmittal No 16-02 (Decoupling)
)
For approval to modify the RBA Rate)
Adjustment in Its Revenue Balancing Account)
Provision Tariff)

In the Matter of the Application of)
)
MAUI ELECTRIC COMPANY, LIMITED) Transmittal No 16-03 (Decoupling)
)
For approval to modify the RBA Rate) CONSOLIDATED
Adjustment in Its Revenue Balancing Account)
Provision Tariff)

DIVISION OF CONSUMER ADVOCACY'S
RESPONSE TO THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR LEAVE TO
FILE REPLY TO DIVISION OF CONSUMER ADVOCACY'S STATEMENT IN
OPPOSITION TO THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR
CALENDAR YEAR ACCRUAL OF RATE ADJUSTMENT
MECHANISM REVENUES FILED NOVEMBER 10, 2016

On November 10, 2016, Hawaiian Electric Company, Inc (“Hawaiian Electric”), Hawai'i Electric Light Company, Inc (“Hawaiian Electric Light”), and Maui Electric Company, Limited (“Maui Electric”) (collectively, the “Hawaiian Electric Companies”) filed a Motion For Leave To File Reply To Division Of Consumer Advocacy’s Statement In Opposition To The Hawaiian Electric Companies’ Motion For Calendar Year Accrual Of Rate Adjustment Mechanism Revenues (“Motion”) to

respectfully request leave to submit [the Hawaiian Electric Companies’] Reply, attached hereto as Exhibit A, in order to respond to issues raised in [the Division of Consumer Advocacy’s (“Consumer Advocate’s”)] Opposition [to the Hawaiian Electric Companies’ Motion For Calendar Year Accrual Of Rate Adjustment Mechanism Revenues, filed on November 1, 2016], respond to erroneous legal arguments, and to clarify certain other matters in order to aid in the development of a sound record for the [Hawaiian Public Utilities Commission’s (“Commission’s”)] decision-making in this matter ¹

Hawaiian Administrative Rules (“HAR”) § 6-61-41 states in totality that

- (a) All motions, except when made during a hearing, shall
 - (1) Be in writing,
 - (2) State the grounds for the motion,
 - (3) Set forth the relief or order sought, and

¹ Hawaiian Electric Companies’ Motion For Leave To File Reply To Division Of Consumer Advocacy’s Statement In Opposition To The Hawaiian Electric Companies’ Motion For Calendar Year Accrual Of Rate Adjustment Mechanism Revenues, at 2

(4) Be accompanied by a memorandum in support of the motion, if the motion involves a question of law

(b) Every motion, except one entitled to be heard ex parte, shall indicate whether a hearing is requested on the motion. If a motion requires the consideration of facts not appearing of record, it shall be supported by an affidavit or affidavits. Motions shall be served in accordance with [HAR] [S]ection 6-61-21

(c) An opposing party may serve and file counter affidavits and a written statement of reasons in opposition to the motion and of the authorities relied upon not later than five days after being served the motion, or, if the hearing on the motion will occur less than five days after the motion is served, at least forty-eight hours before the time set for hearing, unless otherwise ordered by the chairperson

(d) A party who does not oppose a motion or who intends to support a motion or who desires a continuance shall notify the [C]ommission and the opposing attorneys within five days after being served or, if the hearing on the motion will occur less than five days after the motion is served, within forty-eight hours before the time set for hearing. Failure to appear at the hearing may be deemed a waiver of objections to the granting of the motion

(e) Motions that do not involve the final determination of a proceeding may be heard and determined by the chairperson or a commissioner

(f) If a hearing is requested, the movant shall obtain a date and time for hearing on the motion from the chief clerk [of the Commission]

(g) If a hearing on the motion is not requested, the [C]ommission may decide the matter upon the pleadings, memoranda, and other documents filed

While the Consumer Advocate acknowledges that HAR § 6-61-41 does not explicitly prohibit the Hawaiian Electric Companies from requesting that the Commission permit the Hawaiian Electric Companies to file a reply to the Consumer Advocate's Statement in Opposition to the Hawaiian Electric Companies' Motion For Calendar Year Accrual Of Rate Adjustment Mechanism Revenues in Tariff Transmittal Nos 16-01, 16-02, and 16-03 in this instance, HAR § 6-61-41 does not explicitly allow such a

procedurally identified step either² Although the Consumer Advocate recognizes that the Commission is authorized to control the procedures and method for the consideration of matters within its jurisdiction in all instances whatever the manner that it chooses, the Consumer Advocate asserts that the purported support for the Hawaiian Electric Companies' request to advance the recognition of the Hawaiian Electric Companies' Revenue Adjustment Mechanism ("RAM") adjustments in the Hawaiian Electric Companies' decoupling scheme should not be given weight.³ While the Consumer Advocate continues to believe that the record provides sufficient ground for the Commission to deny the Hawaiian Electric Companies' Motion, should the Commission desire to explore the disagreement between the Consumer Advocate and the Hawaiian Electric Companies in further and more thorough detail using any of the procedures and methods available to the Commission at this time, the Consumer Advocate stands ready to assist the Commission in any way that it can

² Compare, for example, Hawaii Rules of Civil Procedure Rule 56(c) which states that


[a] motion shall be filed and served not less than 18 days before the date set for the hearing. The adverse party may file and serve opposing memorandum and/or affidavits not less than 8 days before the date set for the hearing. The moving party may file and serve a reply or affidavit not less than 3 days before the date set for the hearing.

³ This is in addition to the fact that the issue has been raised, briefed, and decided by the Commission in Hawaiian Electric Transmittal No. 11-02 previously.

Accordingly, the Consumer Advocate urges the Commission to deny the Hawaiian Electric Companies' Motion For Leave To File Reply To Division Of Consumer Advocacy's Statement In Opposition To The Hawaiian Electric Companies' Motion For Calendar Year Accrual Of Rate Adjustment Mechanism Revenues in this Tariff Transmittal. In the alternative, if the Commission believes additional information is necessary, the Consumer Advocate contends that a more comprehensive review of the issues surrounding decoupling, the existing accrual process, and the original approved accrual process is required, the Consumer Advocate will participate to the best of its abilities in any such comprehensive review, if required by the Commission.

DATED Honolulu, Hawaii, November 18, 2016

Respectfully submitted,

By 

JON S. ITOMURA
LANE H. TSUCHIYAMA
EDWARD M. KNOX
Attorneys for the

DIVISION OF CONSUMER ADVOCACY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S RESPONSE TO THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR LEAVE TO FILE REPLY TO DIVISION OF CONSUMER ADVOCACY'S STATEMENT IN OPPOSITION TO THE HAWAIIAN ELECTRIC COMPANIES' MOTION FOR CALENDAR YEAR ACCRUAL OF RATE ADJUSTMENT MECHANISM REVENUES FILED NOVEMBER 10, 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

THOMAS W WILLIAMS, JR
PETER Y KIKUTA
GOODSILL ANDERSON QUINN & STIFEL
A Limited Liability Law Partnership, LLP
999 Bishop Street, Suite 1600
Honolulu, Hawaii 96813

1 copy
by hand delivery

Attorneys for Hawaiian Electric Company, Inc
Maui Electric Company, Limited
Hawai'i Electric Light Company, Inc

DATED Honolulu, Hawaii, November 18, 2016

