

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAI'I

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)

CONSOLIDATED

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 7, 2016

EXHIBIT A

AND

CERTIFICATE OF SERVICE

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HAWAI'I ELECTRIC LIGHT COMPANY, INC.

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COMMISSION



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The Hawaiian Electric Companies,<sup>1</sup> by and through their counsel, and pursuant to Section 6-61-41, Hawai'i Administrative Rules, hereby file their Motion ("Motion") for Leave to File

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<sup>1</sup> The "Hawaiian Electric Companies" or "Companies" are Hawaiian Electric Company, Inc. ("Hawaiian Electric" or "Company"), Hawai'i Electric Light, Inc. ("Hawai'i Electric Light") and Maui Electric Company, Limited ("Maui Electric").



Reply (“Reply”) to Division of Consumer Advocacy’s<sup>2</sup> Statement in Opposition (“Consumer Advocate’s Opposition”) to the Hawaiian Electric Companies’ Motion for Calendar Year Accrual of Rate Adjustment Mechanism,<sup>3</sup> filed November 7, 2016.

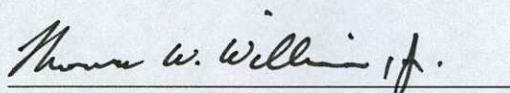
The Hawaiian Electric Companies respectfully request leave to submit their Reply, attached hereto as Exhibit A, in order to respond to issues raised in the Consumer Advocate’s Opposition, to respond to erroneous legal arguments, and to clarify certain other matters in order to aid in the development of a sound record for the Commission’s decision-making in this matter.

Approving the filing of the Hawaiian Electric Companies’ Reply would be consistent with Section 6-61-1, Hawai‘i Administrative Rules, which provides that the Commission’s Rules of Practice and Procedure “shall be liberally construed to secure the just, speedy, and inexpensive determination of every proceeding.”

No hearing is requested on this Motion.

DATED: Honolulu, Hawai‘i, November 10, 2016.

Respectfully submitted,



THOMAS W. WILLIAMS, JR.  
PETER Y. KIKUTA

Attorneys for  
HAWAIIAN ELECTRIC COMPANY, INC.  
MAUI ELECTRIC COMPANY, LIMITED, and  
HAWAI‘I ELECTRIC LIGHT COMPANY, INC.

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<sup>2</sup> Hereinafter, the Division of Consumer Advocacy will be referred to as the “Consumer Advocate.”

<sup>3</sup> Hawaiian Electric’s Motion for Calendar Year Accrual of Rate Adjustment Mechanism was filed November 1, 2016.



# **EXHIBIT A**



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HAWAIIAN ELECTRIC COMPANIES' REPLY TO THE 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 7, 2016

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BEFORE THE PUBLIC UTILITIES COMMISSION  
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ADJUSTMENT MECHANISM REVENUES FILED NOVEMBER 7, 2016

HAWAIIAN ELECTRIC COMPANY, INC. ("Hawaiian Electric"), MAUI ELECTRIC  
COMPANY, LIMITED ("Maui Electric") and HAWAI'I ELECTRIC LIGHT COMPANY, INC.  
("Hawai'i Electric Light") (collectively "Hawaiian Electric Companies" or "Companies"), by and  
through their counsel, hereby file their Reply to the Division of Consumer Advocacy's  
("Consumer Advocate") Statement in Opposition to the Hawaiian Electric Companies' Motion



for Calendar Year Accrual of Rate Adjustment Mechanism Revenues (“Consumer Advocate’s Opposition”) filed November 7, 2016.

By their motion,<sup>1</sup> the Hawaiian Electric Companies have respectfully requested that the Commission allow Hawaiian Electric to preserve and make permanent the “current accrual method”<sup>2</sup> of recognizing RAM revenues on a calendar year basis, which has been in place for the last three years,<sup>3</sup> and to extend the same treatment to Hawai‘i Electric Light and Maui Electric beginning in 2017. The Consumer Advocate opposes the motion.

The Hawaiian Electric Companies and the Consumer Advocate have worked together productively over the years to, first, develop the decoupling mechanism, and then, over time, to make or propose adjustments to the mechanism. The Companies appreciate the Consumer Advocate’s concerns over making permanent changes that have been temporarily in place, and the professional manner in which those concerns are conveyed. With respect, however, for the reasons stated in their motion and below, the Companies still believe the relief requested is reasonable and appropriate.

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<sup>1</sup> The Companies’ Motion for Calendar Year Accrual of Rate Adjustment Mechanism Revenues (“Companies’ Motion”), Memorandum in Support of Motion (“Companies’ Memorandum”), Attachments A-B, and Affidavit of Tayne S.Y. Sekimura were filed on November 1, 2016. On November 10, 2016, the Companies filed corrections to Attachment A.

<sup>2</sup> Under the “current accrual method,” the Company recognizes RAM revenues on a calendar-year basis from January 1 through December 31 for the RAM Revenue Adjustment approved for a particular RAM period. The Company bills customers for the RAM Revenue Adjustment from June 1 of the RAM period through May 31 of the following year.

<sup>3</sup> Pursuant to the Stipulated Settlement Agreement (“2013 Settlement Agreement”) in the Hawaiian Electric 2009 test year rate case filed on January 28, 2013, effective June 1, 2013, the RAM Provision tariff (for only Hawaiian Electric) was revised to allow for a calendar year method for accruing RAM revenues for the 2014, 2015, and 2016 RAM Periods (i.e., current accrual method). Order No. 31126, issued March 19, 2013 in Docket No. 2008-0083 (Hawaiian Electric 2009 test year rate case), approved the Stipulated Settlement Agreement, subject to certain clarifications.



**The current accrual method is consistent with accrual accounting and the original intent of decoupling**

The Companies' position is that the current accrual method, which (for Hawaiian Electric) recognizes RAM revenues on a calendar year basis (from January 1 to December 31), is consistent with accrual accounting, because it aligns revenues with the costs incurred and benefits provided to customers for the same calendar-year RAM period.<sup>4</sup> Reverting to the lagged method of recognizing RAM revenues, which was in place for Hawaiian Electric prior to 2014 ("prior lagged method"),<sup>5</sup> and is still in place for Hawai'i Electric Light and Maui Electric, misaligns RAM revenues with their associated costs and benefits. This also results in financial under-performance due to a loss of up to five months of RAM revenues in rate case test years. This is contrary to the original intent of the decoupling mechanism and State policy supporting renewable energy investment.<sup>6</sup>

The Consumer Advocate maintains that the prior lagged method also is consistent with accrual accounting, and argues that the "difference in regulatory lag between the two methods is not significant." However, the Consumer Advocate's argument does not address the merits. It does not explain why its position represents a **better** accounting practice. It also does not address why impairing the Companies' ability to recover for investments made between rate cases is fair or beneficial in the long run. Citing back to the practice before decoupling (no

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<sup>4</sup> The Hawaiian Electric Companies' approved RAM tariffs define the "RAM period" as the calendar year containing the Annual Evaluation Date, which is the date that the Companies make their annual decoupling filing (i.e., not later than March 31 of each year).

<sup>5</sup> Under the prior lagged method, the Company would recognize RAM revenues from June 1 of the RAM period through May 31 of the following year for the RAM Revenue Adjustment approved for a particular RAM period – i.e., lagged by five months. The Company would also bill the RAM Revenue Adjustment to customers over the same June through May period. The prior lagged method presently applies to Hawai'i Electric Light and Maui Electric.

<sup>6</sup> Companies' Memorandum at 5-7.



recovery between rate cases)<sup>7</sup> misses the point – the decoupling mechanisms were adopted to **change** prior practices.

In addition, contrary to the Consumer Advocate's assertion, the difference in 2017 is significant, which is one of the principal reasons the Companies filed the motion. As discussed in the Companies' Memorandum, the impact would be [REDACTED] to net income in 2017.

Moreover, if the difference is deemed insignificant, then it is not clear why the Consumer Advocate so adamantly opposes the current accrual method. It cannot be to "allow the Commission and the Consumer Advocate more certainty by allowing regulatory review to occur in a timely fashion[.]" because the Companies are not proposing any change to the filing, review and collection process.

The view espoused by the Consumer Advocate that regulatory lag is beneficial tracks an older regulatory view that was more common when sales growth was available to offset cost increases. Modern regulation recognizes that (1) electric utilities are tasked with facilitating important state and federal clean energy policy objectives, (2) utility shareholders should not be unnecessarily penalized for investing in facilities required to achieve those objectives, and (3) regulatory incentives (including timely and adequate cost recovery) work better than regulatory disincentives (like regulatory lag).<sup>8</sup>

Citing the accounting for depreciation, the Consumer Advocate contends 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."<sup>9</sup> With respect to depreciation expense,

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<sup>7</sup> Consumer Advocate's Opposition at 12-13.

<sup>8</sup> See, e.g., *Hawaiian Electric Companies Reply Statement of Position with Respect to Schedule B Issues*, filed September 15, 2014, in Docket No. 2013-0141, at 72-74.

<sup>9</sup> Consumer Advocate's Opposition at 12, 13.



the Companies proposed to change the timing of depreciation accrual as long ago as Hawai‘i Electric Light’s 1990 test year rate case.<sup>10</sup> The Consumer Advocate conceded that the average monthly balance method better matched the recovery of investment through depreciation over an asset’s service life, but opposed the request at that time.<sup>11</sup>

**The Companies are not trying to re-litigate the past; they are trying to preserve the present and change the future**

Contrary to the Consumer Advocate’s argument,<sup>12</sup> the Companies are not re-litigating the past. The Companies are advocating that the current accrual method be considered and preserved under changed present circumstances.

The Commission has recognized that aspects of the decoupling mechanism may be re-examined periodically to make adjustments, if necessary, based on actual practice and experience. Indeed, the Consumer Advocate itself has advocated modifying aspects of the mechanism. In particular, it sought to revise the mechanism when it supported imposition of a RAM cap.<sup>13</sup>

Under the current, changed circumstances, the Company respectfully submits that it is appropriate to continue the current accrual method for Hawaiian Electric.

**In 2017, without preservation of the current accrual method, the Company’s opportunity to earn a fair return will be significantly impaired**

As the companies have noted, in 2017, without preservation of the current accrual method, the Company’s opportunity to earn a fair return will be significantly impaired due to the

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<sup>10</sup> Hawai‘i Electric Light’s 1990 test year rate case was filed July 19, 1989. Hawai‘i Electric Light proposed to change from the method of calculating depreciation accrual based on the beginning-year plant balance to one based on the average-monthly plant balance. At one time, using the beginning-year plant balance was an administrative necessity.

<sup>11</sup> See CA-T-1, filed January 19, 1990, in Docket No. 6432, at 7.

<sup>12</sup> Consumer Advocate’s Opposition at 3-7.

<sup>13</sup> The Consumer Advocate also erroneously claims that the Companies “conveniently fail to acknowledge that this issue” was previously examined and resolved by the Commission. In fact, Attachment B to the Companies’ Motion



structured lag in recognizing RAM revenues. The Company estimates a negative impact to net income of roughly [REDACTED] and a 75 basis point negative impact on its return on equity.

These negative impacts are roughly [REDACTED] of the Company's net income, which will negatively impact the Company's credit quality.<sup>14</sup>

At the same time, preserving the current accrual method would not impact customers between rate cases because customers would continue to be billed for the RAM Revenue Adjustment on a lagged basis from June 1 of the RAM period through May 31 of the following year.<sup>15</sup> Conversely, under the prior lagged method when rate cases are filed, the Companies would permanently lose recovery of up to five months of a RAM Revenue Adjustment if and when an interim rate case award is issued. That impairment would be unfair (because customers would avoid paying for benefits received), and would inhibit the Companies' ability to earn its authorized rate of return, which is contrary to the intent of the decoupling mechanism. The prior lagged method would produce this result in every rate case test year.<sup>16</sup>

The Consumer Advocate contends that potential negative financial consequences "should be ignored", that references to such potential consequences are "wearisome", and that such references are "reminiscent of the boy who cried wolf . . .".<sup>17</sup> This is not a sound response.

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(at pages 2-6) discusses at length the accrual issue and the *Order regarding Attachment 5 and Directing HECO to File Tariff Amendments*, issued on May 20, 2011 in Transmittal No. 11-02 ("Attachment 5 Order").

<sup>14</sup> Companies' Memorandum at 7-10.

<sup>15</sup> However, there would be a difference in a rate case test year. When the interim rate relief for a rate case goes into effect, the accrual of the RAM Revenue Adjustment terminates, but the Company would be able to recover five months of revenues that have accumulated and still remain in the RAM regulatory asset. The Company believes this is fair because the Company has incurred the costs that underlie the RAM Revenue Adjustment beginning January 1 and should be able to recover the costs it has incurred through the RAM up until the time that the interim rate relief goes into effect.<sup>15</sup> Companies' Memorandum at 10.

<sup>16</sup> Companies' Memorandum at 10-11. Moreover, if the Commission approves making permanent the current accrual method of RAM revenues for the Hawaiian Electric Companies, customers are still protected by the conservative design of the RAM and other checks and balances that are part of the RAM. Companies' Memorandum at 13-14.

<sup>17</sup> Consumer Advocate's Opposition at 14. Of course, as it turned out in the fable, there *was* an actual wolf.



Given their current circumstances, the Companies are legitimately concerned about an increase in regulatory lag and a significant deficit in utility earnings, and the Commission should reject the Consumer Advocate's attempt to minimize or ignore such matters.

One of the premises of the 2008 Clean Energy Agreement<sup>18</sup> (signed by the Consumer Advocate) was that the transition to a clean energy future would require significant public and private investment, would increase the operating risks of the Companies, and that there would be a need for both a stable electric grid to minimize disruption to service quality and reliability, and a financially sound utility. Now, the Consumer Advocate still supports the transformation to a clean energy future, but wants to minimize the importance of a financially sound utility to achieve the transformation.

The Companies cite the Companies' credit ratings because they are the key measurement by which investors in the financial marketplace decide whether and at what price to lend their money to the Company.<sup>19</sup> Fitch, Moody's, and S&P's credit rating for Hawaiian Electric currently are all investment grade at BBB+, Baa2, and BBB-, respectively, with stable outlooks. The BBB- rating by S&P is of particular concern, however, because BBB- is S&P's minimum "investment grade" credit rating.<sup>20</sup> This can make it more difficult and more expensive for the Company (and IPPs who rely on the utility as a credit-worthy off-taker for the energy they

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<sup>18</sup> See Attachment B to Motion (Background) at 1-2 & n.1.

<sup>19</sup> A credit rating is an impartial opinion of the general creditworthiness of a company or of a particular security. The rating agencies evaluate a wide range of qualitative and quantitative factors that affect a particular company's credit quality. This assessment considers both the business risks and the financial risks of the company.

The Company needs to maintain access to the financial markets on reasonable terms – in both good economic times and bad – which make it critical for the Company to have a strong credit rating. Capital attraction is a concern for the Companies in the upcoming years because of the need to fund capital investments needed to help the Companies meet the RPS of 100% by 2045, and provide reliable electrical service to customers at the same time.

The Companies' current credit ratings, their credit ratings history, and the importance of the ratings, are discussed at length in the written direct testimonies and exhibits of Robert B. Hevert, HELCO T-20, and Tayne S. Y. Sekimura, HELCO T-21, filed September 19, 2016 in Docket No. 2015-0170.

<sup>20</sup> For Moody's, a rating of Baa3 or higher is considered "investment grade."



produce) to finance capital projects. Also of concern is Moody's August 3, 2016 downgrade of Hawaiian Electric to Baa2 from Baa1. Moody's stated "[t]he ratings downgrade is prompted by our concern that HECO [Hawaiian Electric] will continue to face significant challenges from transforming its generation base to 100% renewable sources in an unpredictable and highly political regulatory environment."<sup>21</sup>

No single event usually determines the Companies' credit ratings, and the Companies do **not** claim that failure to act favorably on this motion will result in a downgrade. But the facts are that the Companies credit ratings have deteriorated, and that a critical element of the credit rating assessment is the presence or lack of regulatory support.<sup>22</sup> The outcome of this motion will affect that assessment.

In addition, a utility's actual return demonstrates its ability to timely recover its costs, provide adequate returns to its investors and, therefore, affects its credit ratings. For example,

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<sup>21</sup> See Moody's Investor Service, *Moody's downgrades Hawaiian Electric Company to Baa2 from Baa1; Outlook stable*, dated August 3, 2016 provided as HELCO-2116, pages 18-22.

<sup>22</sup> S&P indicates that "[t]he regulatory framework/regime's influence is of critical importance when assessing regulated utilities' credit risk because it defines the environment in which a utility operates and has a significant bearing on a utility's financial performance." S&P then states that: "We base our assessment of the regulatory framework's relative credit supportiveness on our view of how regulatory stability, efficiency of tariff setting procedures, financial stability, and regulatory independence protect a utility's credit quality and its ability to recover its costs and earn a timely return. Our view of these four pillars is the foundation of a utility's regulatory support. We then assess the utility's business strategy, in particular its regulatory strategy and its ability to manage the tariff-setting process, to arrive at a final regulatory assessment." S&P RatingsDirect, *Corporate Methodology*, dated November 19, 2013. See also Moody's, *Rating Methodology: Regulated Electric and Gas Utilities*, dated December 23, 2013; Fitch, *Corporate Rating Methodology*, dated August 5, 2013.

In its 2017 Outlook for U.S. regulated utilities, Moody's headlines: "Timely Cost-Recovery Drives Stable Outlook: "A credit-supportive regulatory environment is the main driver of our stable outlook. Our stable outlook for the US regulated utility industry is based on our expectation that utilities will continue to recover costs in a timely manner and maintain stable cash flows." Moody's also notes that: "Most utilities operate in credit-supportive state regulatory jurisdictions." Moody's Investors Service, *Outlook, Regulated Utilities – US; 2017 Outlook - Timely Cost-Recovery Drives Stable Outlook* (Nov. 4, 2016) at 1.

Hawai'i is listed under "Potential Credit-Negative Regulatory Developments: "Hawaiian Electric Company (HECO, Baa2 stable) is under heavy pressure from its regulators and stakeholders to reduce customer rates, which are above the national average, and this is resulting in depressed cash flows and poor returns on equity. HECO also bears considerable risk as it attempts to reduce its costs by switching to renewables from traditionally expensive fuel oil, which currently dominates its fuel mix." *Id.* at 5.



Standard & Poor's ("S&P") has explained that in assessing a utility's ability to timely recover costs: "We do not weigh authorized returns heavily in our analysis; instead, we focus on actual returns. . . . A strongly assessed jurisdiction is one in which all of the utilities it regulates consistently earn above-average returns. We assess jurisdictions lower if only some of them do, and lower still if the earnings records are below average or highly variable from year to year."<sup>23</sup>

Further, contrary to the Consumer Advocate's claims, discontinuing the current accrual method would not have only a one-time impact.<sup>24</sup> As the Companies' Memorandum explains, it would affect financial reporting in every year and the amount of recovery in rate case test years.

At the same time, the preservation/establishment of the current accrual method will make Hawaiian Electric and its subsidiaries more consistent and predictable in terms of earnings potential, thus, making them more comparable with other electric utilities that are considered for investment by the larger investment community. This is a key reason for the decoupled rate environment, which makes Hawaiian Electric and its subsidiaries able to attract needed capital at a reasonable cost for the investments in clean energy.<sup>25</sup>

The Consumer Advocate also suggests that the third quarter earnings for the Companies were "very positive", based on the Hawaiian Electric Industries, Inc. ("HEI") Form 8-K released November 4, 2016, and that this should "assuage" the concerns of investors.<sup>26</sup> However, HEI's one-time gain in 2016 (as a result of the merger termination fee) will not address or justify Hawaiian Electric financial underperformance in 2017 that will be repeated in perpetuity if the requested relief is not granted (because the Companies will not fully earn on new investments

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<sup>23</sup> S&P Ratings Direct, Assessing U.S. Investor-Owned Utility Regulatory Environments, dated January 7, 2014, at 4.

<sup>24</sup> Consumer Advocate's Opposition at 10, 17.

<sup>25</sup> Companies' Memorandum at 11-12.

<sup>26</sup> Consumer Advocate's Opposition at 16-17.



every year). Losses in HEI's non-regulated businesses have never been the responsibility of the regulated utilities. Similarly, the utilities are not entitled to one-time gains at the HEI level (although they will benefit through investment by HEI in the utilities).

### **The requested changes would not violate the 2013 global settlement agreement**

As noted in the motion, the current accrual method was implemented for Hawaiian Electric for the 2014, 2015, and 2016 RAM Periods pursuant to the 2013 Settlement Agreement approved by the Commission in the Hawaiian Electric 2009 test year rate case.<sup>27</sup> The Consumer Advocate erroneously contends that the requested relief somehow violates the 2013 Settlement Agreement.<sup>28</sup>

The Companies have faithfully abided by, and customers have benefited from, the 2013 Settlement Agreement. As required by that Agreement:

- Hawaiian Electric, Hawai'i Electric Light and Maui Electric wrote off a total of \$40 million of the investment in the Customer Information System ("CIS") and the Campbell Industrial Park Combustion Turbine Unit 1 projects.<sup>29</sup>
- Hawai'i Electric Light withdrew its 2013 test year rate case, in which it had requested approval of an increase in revenues of \$19,808,000 over revenues at present rates.<sup>30</sup>
- Hawaiian Electric not only delayed the filing of its 2014 test year rate case, but it filed an abbreviated rate case filing on June 27, 2014, in which it did not request an increase in revenues, instead of seeking an increase in revenues of \$56,212,000 over revenues at current effective rates (based on a 2014 test year).
- In addition, Maui Electric filed an abbreviated rate case filing on December 30, 2014, in which it did not request an increase in revenues, instead of seeking an

<sup>27</sup> Hawaiian Electric 2009 Test Year Rate Case Stipulated Settlement Agreement between the Hawaiian Electric Companies and the Division of Consumer Advocacy regarding Certain Regulatory Matters, filed January 28, 2013, in Docket No. 2008-0083. See Companies' Motion at 2 & n.3; Companies' Memorandum at 2 n.3, Attachment B to Companies' Motion at 9.

<sup>28</sup> Consumer Advocate's Opposition at 7-8.

<sup>29</sup> For purposes of accounting for the settlement, the entire write-off was adjusted as part of the cost of the CIS project.

<sup>30</sup> See Application filed August 16, 2012 in Docket No. 2012-0099.



increase in revenues of \$11,550,000 over revenues at current effective rates (based on a 2015 test year).

If anything, as a practical matter, it is the Companies who did not receive the full benefit of their bargain, due in part to positions taken by the Consumer Advocate.

The 2013 Settlement Agreement provided that, through calendar year 2016, the Hawaiian Electric Companies and the Consumer Advocate will recommend and support continuation of Hawaiian Electric Companies' existing recovery mechanisms, which included the decoupling RBA and RAM. The RAM, however, was materially changed in 2015 in the decoupling re-examination docket, based in part on the Consumer Advocate's proposal in that docket.<sup>31</sup> Among other things, the result of the change has been to substantially delay recovery of revenue requirements for capital projects above the RAM cap established by the Commission.<sup>32</sup> In spite of the Commission's intention to provide a means for timely recovery of expanded capital programs above the RAM cap,<sup>33</sup> the Consumer Advocate's categorical opposition to Company requests to recover revenue requirements above the RAM cap risks increasing the impact of that change considerably.

Nevertheless, the Companies have not sought to revise the RAM accounting during the pendency of the 2013 Settlement Agreement – they are only seeking to preserve modifications

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<sup>31</sup> In order to meaningfully participate in that proceeding, the Companies and the Consumer Advocate submitted the Joint Statement of Position of the Hawaiian Electric Companies and Consumer Advocate on the Constraints of the Stipulated Settlement Agreement on June 20, 2013. The submission emphasized that: "[I]t is important that any material changes in the current decoupling mechanism be made prospectively after 2016 unless the change is mutually agreed by the Hawaiian Electric Companies and the Consumer Advocate in this proceeding." The change now proposed by the Companies would not take place until after 2016.

<sup>32</sup> The RAM cap is relatively low since it is indexed on the rate of inflation (i.e., the GDPPI). However, the Commission stressed that the modifications to the RAM do not deprive the Companies of the opportunity to recover any prudently incurred expenditures or limit orderly recovery for necessary expanded capital programs. Thus, the Commission allowed the Companies to apply for recovery for any type of Major Project (including related baseline projects) to be implemented through the RAM, REIP or other proposed mechanism. Order No. 32735, issued March 31, 2015, in Docket No. 2013-0141 ("Order No. 32735") at 7, 89.

<sup>33</sup> Order No. 32735 at 6.



after it expires. And the Settlement Agreement does not state that the Companies could never seek future RAM accounting changes, including those it seeks now.

### **Changed circumstances justify preservation of the current accrual method**

The Companies have noted that changed circumstances justify preservation of the current accrual method – for example, since 2011, the calculation of the RAM has become more conservative, while the renewable portfolio standards (“RPS”) have become much more ambitious and challenging and that making the current accrual method permanent and extending that method to the other Hawaiian Electric utilities would acknowledge these changes and be an important step in evolving regulatory mechanisms to support achievement of the new RPS targets.<sup>34</sup>

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 Consumer Advocate argues, however, that this should be given no weight.<sup>35</sup> In essence, it disregards those changes and maintains that the 2011 RAM accounting should be revived simply because that was what was adopted in the past.

While reversion to the prior lagged method was foreseeable when the Companies signed the settlement agreement, the magnitude of the impact and other material developments since then were not – the Companies could not reasonably have been expected to foresee the RAM cap, the change to the RPS law, filing abbreviated rate cases, and the proposed merger, to name a few. The financial markets also expect to see regulatory mechanisms evolve with changed circumstances.

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<sup>34</sup> Memorandum at 12-13.

<sup>35</sup> Consumer Advocate’s Opposition at 13.



**Acting on the Companies' request does not necessitate a comprehensive review of the decoupling mechanism.**

The Consumer Advocate argues that it is “unclear” whether the requested relief would require revisiting the entire decoupling mechanism.<sup>36</sup> The Companies' position is it does not. Past Commission practice confirms this.

The Commission has reserved sufficient authority to change or maintain the RAM without conducting a “comprehensive review” in every instance. Indeed, the original decision on Attachment 5 was not made in the context of a comprehensive review of the decoupling mechanism, but was made at the Consumer Advocate's written request in the context of reviewing Hawaiian Electric's initial annual decoupling filing. Moreover, a comprehensive review is unwarranted in light of Hawaiian Electric's request, which is to simply maintain the status quo with respect to the current accrual method.

**Summary**

In summary, the RAM has become more conservative, while the renewable portfolio standards have become much more ambitious and challenging. In light of the changed circumstances, requiring Hawaiian Electric to revert to the accounting method for RAM revenues adopted in 2011, with the permanent five-month lag in recognizing revenue and the severe adverse financial consequence for 2017, is, in the Company's view, neither necessary nor reasonable, and would be detrimental to the effort to achieve the new renewable portfolio standards. Rather, in light of the changed circumstances, the Company submits that it is appropriate to continue the current accrual method for Hawaiian Electric.

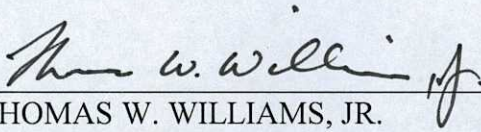
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<sup>36</sup> Consumer Advocate's Opposition at 8-9.



Hawai'i Electric Light and Maui Electric face the same State policy implementation and capital investment funding challenges that Hawaiian Electric faces. It makes sense to have the three utilities have similar accrual methods. Therefore, the Companies request that calendar year accrual be applied to all three Companies on a permanent basis effective January 1, 2017.

DATED: Honolulu, Hawai'i, November 10, 2016.

  
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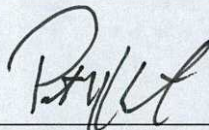
CERTIFICATE OF SERVICE

I hereby certify that I have this date served copies of the forgoing HAWAIIAN ELECTRIC COMPANIES' REPLY TO THE 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 7, 2016, together with this Certificate of Service, by making personal delivery, or by causing a copy hereof to be mailed, postage prepaid and properly addressed, to the following and at the following address:

Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs  
State of Hawaii  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813

2 copies  
by hand delivery

Dated: Honolulu, Hawai'i, November 10, 2016.



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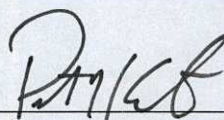
CERTIFICATE OF SERVICE

I hereby certify that I have this date served copies of the forgoing **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 7, 2016, EXHIBIT A** together with this Certificate of Service, by making personal delivery, or by causing a copy hereof to be mailed, postage prepaid and properly addressed, to the following and at the following address:

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