BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Transmittal of HAWAIIAN ELECTRIC COMPANY, INC., For Approval to Modify the RBA Rate Adjustment in its Revenue Balancing Account Provision Tariff and approval Of the Measured Performance and Calculation of the PIM Financial Incentives and Performance Incentive Adjustment.	Transmittal No. 19-01 (Decoupling)
In the Matter of the Transmittal of HAWAII ELECTRIC LIGHT COMPANY, INC., For Approval to Modify the RBA Rate Adjustment in its Revenue Balancing Account Provision Tariff and approval Of the Measured Performance and Calculation of the PIM Financial Incentives and Performance Incentive Adjustment.	Transmittal No. 19-02 (Decoupling)
In the Matter of the Transmittal of MAUI ELECTRIC COMPANY, LIMITED, For Approval to Modify the RBA Rate Adjustment in its Revenue Balancing Account Provision Tariff and approval Of the Measured Performance and Calculation of the PIM Financial Incentives and Performance Incentive Adjustment.	Transmittal No. 19-03 (Decoupling) Consolidated (Non-Docketed)

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ORDER NO. 36336

(1) APPROVING HELCO AND MECO TARIFF TRANSMITTALS, AS AMENDED; AND (2) APPROVING HECO TARIFF TRANSMITTAL, SCENARIO #4, AS AMENDED

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In the Matter of the Transmittal of MAUI ELECTRIC COMPANY, LIMITED, For Approval to Modify the RBA Rate Adjustment in its Revenue Balancing Account Provision Tariff and approval Of the Measured Performance and Calculation of the PIM Financial Incentives and Performance Incentive Adjustment.	Transmittal No. 19-03 (Decoupling) Consolidated (Non-Docketed) Order No. 36336

(1) APPROVING HELCO AND MECO TARIFF TRANSMITTALS, AS AMENDED;
AND (2) APPROVING HECO TARIFF TRANSMITTAL,
SCENARIO #4, AS AMENDED

By this Order, the commission approves HAWAII ELECTRIC LIGHT COMPANY, INC's ("HELCO") Transmittal No. 19-02 and

MAUI ELECTRIC COMPANY, LTD. ("MECO")[1] Transmittal No. 19-03, as amended by the Parties' Stipulated Revision to Reply Statement of Position, filed on May 28, 2019,[2] including the tariff sheets provided therein, as set forth herein. The commission additionally approves HAWAIIAN ELECTRIC COMPANY, INC's ("HECO") Transmittal No. 19-01, Scenario #4,[3] as amended by the Stipulated Revision, filed on May 28, 2019, including the tariff sheets provided therein, as set forth herein.

A.

Background

HECO is the franchised provider of electric utility service on the island of Oahu, HELCO is the franchised provider of electric utility service on the island of Hawaii, and MECO is the franchised provider of electric utility service on the islands of Lanai, Maui, and Molokai.

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[1]HECO, HELCO, and MECO are collectively referred to as the "HECO Companies" or the "Companies."

[2]"Parties Stipulated Revision to Reply Statement of Position, Books 1 and 2," filed on May 28, 2019 ("Stipulated Revision").

[3]HECO Scenario #4 includes HECO Attachment Nos. 1, 1A, and 2C, which exclude the West Loch PV project from the RAM Revenue Adjustment and do not reflect requested exclusions of specific reliability impacts in the calculation of performance incentive penalties.

Each of the Company's respective decoupling mechanism tariffs consist of two components: (1) the Rate Adjustment Mechanism Provision ("RAM"); and (2) the Revenue Balancing Account ("RBA") Provision.[4]

B.

Companies' Annual Decoupling Transmittals

On March 29, 2019, HECO, HELCO, and MECO each filed a transmittal - Transmittal Nos. 19-01, 19-02, and 19-03, respectively, consistent with the March 31st Annual Evaluation Date set forth in each electric utility's RBA Provision ("RBA Tariff or Tariffs").

[4] See, e.g., HECO's RAM Provision, at Revised Tariff Sheets No. 93 to No. 93I ("RAM Provision Tariff"); and HECO's RBA Provision, at Revised Tariff Sheets Nos. 92 to 92E ("RBA tariff").

In effect, each transmittal represents HECO's, HELCO's, and MECO's respective RBA Review Transmittal, due by March 31st of each year. The end-result each year is ordinarily a consolidated commission Order, which approves an updated RBA Rate Adjustment, in cents per kilowatt-hour, and updated effective Target Revenue amounts, for HECO, HELCO, and MECO, effective from June 1 through May 31, for the applicable calendar year RAM Period.[5]

The Companies served copies of their non-docketed transmittals upon the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate").

On May 1, 2019, the commission issued Order No. 36286, (1) consolidating HECO's Transmittal No. 19-01, HELCO's Transmittal No. 19-02, and MECO's Transmittal No. 19-03, filed on March 29, 2019; and (2) granting the Consumer Advocate's request for enlargement of time to file its Statement of Position.

The Consumer Advocate filed its Statement of Position on May 10, 2019, "offer[ing] comments and recommendations for the [c]ommission's consideration based upon the review that the

[5] See, e.g., In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Transmittal Nos. 17-02, 17-03, and 17-04 (Consolidated), Order No. 34581, filed on May 31, 2017; and In re Hawaiian Elec. Co., Inc., Hawaii Elec. Light Co., Inc., and Maui Elec. Co., Ltd., Transmittal Nos. 16-01, 16- 02, and 16-03 (Consolidated), Order No. 33724, filed on May 24, 2016.

Consumer Advocate has been able to conduct thus far of the decoupling rate adjustment filings . . . ."[6]

On May 21, 2019, the HECO Companies filed their Reply to the Division of Consumer Advocacy's Statement of Position, which included revised tariff sheets and supporting exhibits for all three Companies showing revised proposed target revenues and RBA Rate Adjustments, as the result of the resolution of four out of five proposed adjustments in the Consumer Advocate's SOP, discussed further below.[7]

On May 28, 2019, the Companies filed their Stipulated Revision, which included further revised tariff sheets and supporting exhibits for all three Companies with further revised proposed target revenues and RBA Rate Adjustments.

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[6]"Division of Consumer Advocacy's Statement of Position; Exhibits 1-7; and Certificate of Service," filed on May 10, 2019 ("CA SOP").

[7]"Hawaiian Electric Companies' Reply to the Division of Consumer Advocacy's Statement of Position; and Exhibits 1-2 (with Attachments)," filed on May 21, 2019 ("Companies' Reply").

II.

Discussion

A.

Proposed RBA Adjustments

The Consumer Advocate proposed two adjustments to the December 31, 2018 recorded RBA balances in its SOP, as discussed below.

1.

Accumulated Deferred Income Taxes ("ADIT") Related to RBA Revenue (Transmittal Nos. 19-01, 19-02, and 19-03)

In their March 29, 2019 Transmittals, the Companies note regarding the calculation of their RBA balances in 2018, that they "revised [their] interest calculation based on the statutory language of Internal Revenue Code §451(b) retroactive to January 2018, when an [ADIT] adjustment arose as a result of the 2017 Tax Cuts & Jobs Act ("2017 Tax Act"). The interest rate applied to net of ADIT RBA balances continued to be the approved short-term interest rate according to each respective Company's final rate orders."[8] The Consumer Advocate's first proposed RBA adjustment was to revise each Company's Schedule B, in order to continue calculating interest on the RBA balance on a net-of-tax

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[8]HECO Companies' Transmittal Nos. 19-01, 19-02, and 19-03, at 9.

basis, because of lingering uncertainty surrounding the tax law changes "that may ultimately impact the ability to continue deferring income taxes on RBA revenues that are accrued on the utilities' books."[9] The Consumer Advocate recommends "that any final determination by the [IRS] that eliminates the deferral of income taxes on RBA balances should be addressed in future RBA transmittals, by an adjustment that would prospectively modify the RBA balance with applicable interest, in a manner consistent with the regulatory treatment of other [Uncertain Tax Position] matters . . . ."[10]

In the Companies' Reply, they "disagree with [the] Consumer Advocate's net of tax calculation that assumes that the Companies will receive the benefit of deferral on the RBA balance[,]" arguing that "[t]he Companies should be compensated for these funds paid out for estimated taxes since it is reasonable to assume the new law in IRC §451(b) will apply[,]" however, "to settle this issue, the Companies will agree with continuing the net of tax calculation utilized in prior decoupling filings for calculating interest on the RBA balance (interest rate applied

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[9]CA SOP at 14 (noting that "this uncertainty need not be immediately translated into higher RBA charges to customers.")

[10]CA SOP at 15.

on base that is equal to RBA balance x (1-25.752%)) for this filing under the conditions proposed by the Consumer Advocate."[11]

2.

HELCO RBA Interest Rate Update (Transmittal No. 19-02)

HELCO's Transmittal No. 19-02 at Schedule B applied a 3.25% annual interest rate through June of 2018 and then an updated 1.50% interest rate for July through December 2018, explaining that "[b]eginning July 1, 2018, [HELCO] will use the approved short term debt rate of 1.50% to calculate the RBA interest as approved by the [c]ommission in Docket No. 2015-0170."[12] The Consumer Advocate, however, instead "recommends that the reduced cost rate for short term debt that was determined appropriate in [HELCO's] 2016 test year be recognized at the time new interim rates were effective in that docket, starting September 1, 2017, rather than July 2018, when final rates were later implemented."[13]

[11]Companies' Reply, Exhibit 1 at 2.

[12]Transmittal No. 19-02, Schedule B at 1 n.4 (further explaining that "[a]s the pro-rated RBA interest of 1 day (06/30/2018) in June is immaterial, [HELCO] will use the short term debt rate of 3.25% to calculate the RBA interest for June.")

[13]CA SOP at 16 (emphasis in original).

The Companies state that "[HELCO] interpreted 'the last full rate case' as the most recent <u>final</u> decision and order in a general rate case[,]" and therefore "did not recognize the short term debt rate at the time new interim rates were effective in Docket No. 2015-0170[,]" however, "[f]or the purpose of settling this issue, [HELCO] is willing to reflect the Consumer Advocate's recommended adjustment of revising the RBA interest rate as of the date interim rates went into effect."[14]

3.

<u>Commission Determination</u>

Based on the Companies' and Consumer Advocate's agreement regarding these proposed RBA adjustments, the commission approves, as reflected in the Stipulated Revision, both the Companies' continuation of the net-of-tax calculation utilized in prior decoupling filings for calculating interest on the RBA balance for the 2019 Transmittal filings, and use of HELCO's RBA interest rate as of the date HELCO's interim rates went into effect (i.e., application of a 1.50% rate for HELCO's RBA interest

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[14]Companies' Reply, Exhibit 1 at 4 (emphasis in original) (stating that HELCO "will revise its calculations to reflect an interest rate of 1.50% as approved by the [c]ommission in Docket No. 2015-0170, starting September 1, 2017, with corresponding adjustments made to the beginning of 2018 RBA balance.").

beginning on September 1, 2017, the date its interim rates went into effect, instead of July 1, 2018). The commission also affirms the Companies' request that "[i]f clarification in the law or a determination by the IRS or the Hawaii Department of Taxation [] should result in the loss of any deferral benefit, then the potential for an adjustment (similar to that resolution agreed to in prior rate cases for uncertain tax positions, i.e., FIN 48) will be addressed in future RBA transmittals or in a rate case, whichever comes first."[15]

B.

Proposed Revenue Adjustments

In addition to the proposed RBA adjustments discussed above, there were two proposed RAM Revenue Adjustments. These are discussed individually, below.

[15]Companies' Reply, Exhibit 1 at 2-3.

1.

Excess ADIT Amortization
(Transmittal Nos. 19-01, 19-02, and 19-03)

The Companies' Depreciation and Amortization RAM Adjustments (Schedule E), recognize the annual amortization expense credit for excess ADIT, resulting from the reduction in federal business income tax rates from 35 percent to 21 percent as of January 1, 2018 pursuant to the 2017 Tax Act. In its SOP, the Consumer Advocate notes that

> the 'excess' amounts of ADIT from this revaluation [of deferred income tax amounts that were previously collected from ratepayers and recorded within the utilities' ADIT accounts at the historically higher 35 percent federal income tax rate] were reclassified as a regulatory liability at year-end 2017, to recognize the utilities' obligation to return such previously collected amounts to ratepayers.[16]

The "largest category of excess ADIT caused by the Tax Act arises from tax depreciation accelerated method and life differences, in comparison to the straight-line 'book' depreciation methods based upon generally longer useful plant lives[,]" which are identified with the caption "'Plant 282 - protected' because of limitations imposed within the Tax Act that prohibit the rapid return of these excess ADIT amounts to ratepayers."[17]

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[16]CA SOP at 19.

[17]CA SOP at 19 (noting that "[f]or [HECO], the 'protected' excess ADIT regulatory liability amounts represent more than $223

As a result, and because, after discussion of this issue in all three of the HECO Companies' recently-concluded rate cases, "the [] Companies still claim to be unable to accurately quantify amortization periods or amounts using an ARAM method of accounting for the 'protected' category of excess ADIT awaiting return to ratepayers[,]" the Consumer Advocate "proposes an adjustment to the RAM calculations of each utility to commence amortization of the 'protected' category of excess ADIT, using an amortization period of 40 years as a conservative estimate of annual amortization amounts that will comport with [Average Rate Assumption Method ("ARAM")] restrictions."[18]

The Companies state that they "conceptually agree with the Consumer Advocate's recommendation of initiating the amortization of a conservative estimate of the ARAM for the Companies 'Plant 282-protected' regulatory liabilities in the interim period between June 1, 2019, until the actual ARAM

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million that is owed to ratepayers[,] id., and that "[f]or [HELCO], nearly all of the excess ADIT regulatory liability on Schedule D5 is 'protected' and for [MECO] $49.1 million of the total $54.8 million falls within the 'protected' category." Id. at n.20).

[18]CA SOP at 19-20 (stating that "[t]his estimate of an ARAM-compliant amortization period is conservative in relation to the composite overall book depreciation rate employed on Schedule E for all of the depreciable utility plant of each utility[,]" and discussing the fact that "[o]ther utilities have commenced regulatory amortization of their 'protected' category of excess ADIT for the benefit of ratepayers, without precisely quantifying the ARAM amounts for each year." Id. at 23-25).

amortization is calculated[;]" however, "with respect to the proposed use of a 40-year amortization on the total 'Plant 282-protected' regulatory liabilities, the Companies believe that the result is not a 'conservative' estimate in light of the ARAM methodology, which accounts for the excess ADIT vintage by vintage for each account."[19] Nonetheless,

> in consideration of the fact that the Companies did not recognize any amortization in 2018, the Companies are willing to implement a 40-year amortization beginning with the change in RBA rates on June 1, 2019 on a temporary basis until the Companies can determine its actual ARAM calculation, subject to [c]ommission assurances of true-up provisions.[20]

The Companies elaborate that "[a]s recommended by the Consumer Advocate, any true-up between the estimate of ARAM and the actual ARAM calculation should be included in a regulatory asset/liability as soon as the Companies determine their actual

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[19]Companies' Reply, Exhibit 1 at 5-6 (explaining that "[u]nder ARAM, the excess for each vintage/account begins amortizing only when book depreciation exceeds the tax depreciation. Consequently, the more recent vintages will not have started the amortization since accelerated tax depreciation rates will generally exceed book depreciation rates in the early periods of equipment life, and therefore applying a 40-year amortization rate on the entire 'Plant 282-protected' regulatory liabilities will likely overstate the ARAM amortization . . . ." Id. at 6).

[20]Companies' Reply, Exhibit 1 at 6 (noting the "IRS's intent to issue guidance under §168 of the Internal Revenue Code to clarify the normalization requirements for excess tax reserves resulting from the tax rate decrease.").

ARAM and accordingly adjusted for in rates as soon as practicable."[21]

a.

Commission Determination

The commission notes both the Consumer Advocate's statements that "ratepayers have received no amortization benefit from the largest 'protected' category of excess ADIT they are owed, even though these amounts became regulatory liabilities for return to ratepayers as of January 1, 2018[,]"[22] and the Companies' acknowledgement that they "did not recognize any amortization in 2018" for these excess ADIT amounts.[23] Based on the Companies' and Consumer Advocate's agreement regarding this proposed RAM adjustment, the commission approves the 40-year amortization beginning with the change in RBA rates on June 1, 2019, on a

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[21]Companies' Reply, Exhibit 1 at 6 (strongly recommending that the commission's order include the following: "1) the parties agree that the intent is to comply with the tax normalization requirements and that additional guidance may impact the Companies' current interpretation of the application of the normalization rules to the facts in these proceedings, and 2) the Companies will have the right to a revenue requirement modification that addresses the normalization issues if it is later determined that the interim 40-year amortization will potentially result or has resulted in a normalization violation, based on the rules and guidance available." Id. at 7).

[22]CA SOP at 20.

[23]Companies' Reply, Exhibit 1 at 6.

temporary basis until the Companies can determine their actual ARAM calculation, as implemented in the Companies' Stipulated Revision and supporting exhibits.

Pursuant to the Companies' request, the commission notes that the Companies and the Consumer Advocate agree that the intent of the above-discussed adjustment is to comply with tax normalization requirements, and that additional tax guidance may impact the Companies' current interpretation of the application of the normalization rules to the facts in these proceedings. The commission will review the Companies' request for a revenue requirement modification that addresses the normalization issues if it is later determined that the interim 40-year amortization will potentially result in, or has resulted in, a normalization violation, based on the rules and guidance available. Subject to further review by the Commission regarding amounts and implementation details, true-up between the estimated amortization of excess ARAM ADIT approved herein and the amount of amortization correctly determined commencing January 1, 2018, according to the ultimate calculation of ARAM ADIT amounts, should be implemented as a regulatory asset/liability as soon as the Companies determine actual ARAM amounts, and shall accordingly be adjusted for in rates as soon as practicable.

2.

Joint Pole Revenues (Transmittal Nos. 19-01, 19-02, and 19-03)

In the 2019 Transmittals, the Companies note that pursuant to the commission's Order No. 35768 in Docket No. 2018-0075, filed on October 16, 2018, which approved the transfer of joint pole assets between Hawaiian Telcom and the Companies, the joint pole assets were transferred to and recorded in the plant accounts of each of the Hawaiian Electric Companies in October 2018.[24] Per the Companies, their 2019 Transmittals "included the following known items related to the Hawaiian Telcom transaction:" joint pole revenues, and rate base adjustments for joint pole interest acquisition, unbilled pole credits, and ADIT.[25]

In response, the Consumer Advocate stated that:

> Notably, 100% of the joint pole assets transferred to the [HECO] Companies are included in the beginning of year and end of year rate base for purposes of the 2019 RBA/RAM filings and the utilities are not 'absorbing' any costs arising from the settlement with Hawaiian Telcom that are incurred but not included in the RAM calculations. For example, the asserted Rate Base RAM includes a full year return on the transferred joint pole investment . . . [as well as] a full year of depreciation expense on those transferred plant assets. Even though Note 3 of Attachment 2, Schedule A1, indicates that all Joint Pole Revenues

[24]Transmittal No. 19-01 at 23-24, Transmittal No. 19-02 at 20, and Transmittal No. 19-03 at 19-20.

[25]Companies' Reply, Exhibit 1 at 9-10 (noting that the 2019 Transmittals do not include forecasted attachment revenues and forecasted incremental O&M expenses related to the joint poles).

> (i.e., Hawaiian Telcom and third party attachers) 'will offset any depreciation costs of transferred poles and related equipment, and the authorized return to the Companies shareholders[,]' the [HECO] Companies have retained for the sole benefit of shareholders significant joint pole revenues (including other third party attachers) that are ignored within the 2019 RBA/RAM filings. In effect, the [HECO] Companies seek to recover a return on and depreciation of the joint pole assets in the 2019 RBA/RAM filings at ratepayers' expense without recognizing all of the available offsetting revenues associated with the transferred joint poles in the same filings.

The Consumer Advocate proposes "that the [c]ommission recognize the additional 2019 revenues estimated by the [HECO] Companies in the response to Informal CA-IR-49 and HELCO-2222/HELCO-WP-2222 in Docket No. 2018-0368 [(the pending HELCO rate case),]"[26] and accordingly replaced the Company-proposed amounts in Exhibits 1 through 4 with the Consumer Advocate's recommended values . . . ."[27]

In the Companies' Reply, the Companies disagree with the Consumer Advocate's proposed revenue adjustments (including adjustments for the HT existing pole attachment revenue, HT new pole attachment revenue, HT double pole remediation revenues, HT unbilled pole revenues, other attachment/ancillary

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[26]CA SOP at 35 (these exhibits contain "[HELCO's] submission of the financial impact studies of revenues, expenses, and rate base items associated with the joint pole transfer. . . ." Id. at 33).

[27]CA SOP at 35-36.

revenues, and uncollectible interest income). The Companies also disagree with the Consumer Advocate's arguments regarding and calculation of the Joint Pole Revenues and Costs (including Depreciation RAM, Rate base RAM, ADIT, and Joint pole revenues).[28] However, the Companies ultimately conclude that:

> For the 2019 rate base RAM calculation and until the forecasted other revenues and incremental O&M expenses can be addressed in the upcoming rate cases, the Companies [] agree to settle this issue by removing these joint pole items from the RAM calculations: 1) depreciation (Schedule E), 2) rate base (plant, unbilled pole, and associated ADIT)(Schedules D and D1), and 3) existing pole revenues (Schedule A1). This compromise keeps the RAM filings neutral with respect to the Hawaiian Telcom joint pole transactions until these issues can be addressed in each Company's respective rate case.

In the Stipulated Revision the Consumer Advocate concurs with the removal of the joint pole transaction expenses and revenues from the RAM Revenue Adjustment determinations, and agrees on revised accounting for associated ADIT adjustments.[29]

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[28]Companies' Reply, Exhibit 1 at 11-14.

[29]See Stipulated Revision at 1-2. The Stipulated Revision includes comprehensive amended supporting workbook exhibits incorporating agreed-upon removal of specific ADIT adjustments associated with the joint pole transactions.

a.

Commission Determination

Given the Companies' and the Consumer Advocate's agreement on the joint pole issue, the commission approves the Companies' removal of the joint pole assets, related depreciation, ADIT, unbilled pole credits, and Hawaiian Telcom existing pole revenues from the calculation of the 2019 RAM revenue adjustment.

C.

SAIDI/SAIFI Performance Incentive Mechanisms
(Transmittal No. 19-01)

The commission approved three reliability-related Performance Incentive Mechanisms ("PIMs") in Docket No. 2013-0141, via Order No. 34514, filed on April 27, 2017. As noted by the Consumer Advocate, the 2019 RBA Review "is the first iteration of decoupling transmittals containing incentives and penalties arising from [PIMs] that were approved by the [c]ommission [in Docket No. 2013-0141]."[30]

In a letter filed with the commission on December 18, 2018, the Companies requested exclusion of the impacts

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[30]CA SOP at 36; see HECO Companies' Performance Incentive Mechanism Provision Tariffs, at Revised Tariff Sheet Nos. 98 to No. 98E ("PIM Provision tariff") (effective date January 1, 2018), available at:https://www.hawaiianelectric.com/documents/billing_and_payment/rates/hawaiian_electric_rates/heco_rates_pim.pdf.

of certain planned outages that occurred in July 2018 resulting from 25kV splice replacements on HECO's system from its 2018 System Average Interruption Duration Index ("SAIDI") and System Average Interruption Frequency Index ("SAIFI") PIMs calculations ("exclusion request").[31] HECO describes this as a "one-time request for exclusion from the 2018 evaluation period based on the special and specific circumstances that necessitated the planned outages and the 25kV splice replacement work."[32] "In particular, [HECO] initiated eight planned outages to replace underground vault 25kV cable splices on a proactive and planned basis[,]" because a certain type of cable splice used in its 25kV distribution system was "failing at an increasing rate ahead of its design life and that corresponding circuit outages were likely to occur in vaults in the Iwilei, Kakaako and Ala Moana areas."[33] Specifically, HECO requested "an exclusion from the 2018 SAIDI and

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[31]"Transmittal No. 18-05 - Hawaiian Electric's Letter Request for Exclusion of 25kV Splice Replacement Work from Performance Incentive Mechanism Provision's SAIDI and SAIFI 2018 Calculations," filed on December 18, 2018 ("December 2018 Letter"), at 1.

[32]December 2018 Letter at 1.

[33]December 2018 Letter, Attachment A at 1. The Companies further stated that "[t]ypical failures of splices result in massive releases of energy at the splice, including flame, heat, and kinetic energy, and explosions, which cause unplanned outages for customers and present a safety issue for Company employees working in the underground vaults." Id.

SAIFI calculations of outage minutes and frequency attributable to the 25kV replacement work[,]" arguing that it should not be subjected to a financial penalty for "actions that addressed safety and will benefit customers over the long run."[34]

The Consumer Advocate responded to the December 2018 Letter on January 7, 2019, recommending that the commission "require [HECO] to provide two sets of SAIDI and SAIFI calculations, one including the planned outages resulting from the 25kV splice replacement work, and the other excluding the replacement work[,]" for the 2018 evaluation period, while HECO, the Consumer Advocate, and the commission further explore the issue.

The Companies incorporated their exclusion request into the 2019 Transmittals,[35] which the Consumer Advocate further addressed in its SOP, ultimately recommending that the commission reject HECO's proposed exclusion request because:

> 1. As a matter of policy, the [c]ommission should consider modifications to PIMs within established docketed proceedings, rather than expedited decoupling transmittals, to ensure adequate procedural opportunities exist to evaluate alternatives and provide opportunity for stakeholders to participate in consideration of PIM modifications;

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[34]December 2018 Letter, Attachment 1 at 1-2.

[35]Transmittal No. 19-01 at 12-15, Transmittal No. 19-02 at 10-12, and Transmittal No. 19-03 at 10-12.

2. Permitting ad hoc adjustments to measured annual performance after PIMs have been established invites gaming;

3. Reliability performance in July 2018, to which the exclusion request refers was not the worst of all months in 2018, "implying that other considerations beyond the 25kV planned outages have more explanatory value for reliability performance throughout the calendar year";

4. HECO's exclusion request improperly seeks to adjust 2018 measured performance to exclude planned outages, while not adjusting the average historical performance that was used to establish PIM targets so as to maintain comparability;

5. The future reliability benefits resulting from the planned 2018 outages should serve to improve and reward future utility performance under SAIDI and SAIFI PIMs, effectively rewarding the utilities for any near-term penalties that resulted from the planned outages; and

6. Ad hoc adjustments are inconsistent with the commission's planned broadened evaluation and use of PIMs in the Performance-Based Regulation docket, Docket No. 2018-0088.[36]

The Consumer Advocate further argues that the exclusion request is unsupported by HECO's RBA or PIM Tariffs, as evidenced by the exclusion request itself, and that the request is inconsistent with the prohibitions against retroactive ratemaking, the filed-rate doctrine, and single issue ratemaking.[37]

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[36]CA SOP at 37-38.

[37]CA Response to PUC-HECO-IR-100, filed on May 14, 2019.

In their Reply, the Companies begin by stating that "[t]he Consumer Advocate's position would result in [HECO] being penalized for performing work that was prudent, served safety and customer interests, and was not inconsistent with the spirit of the reliability [PIMs]."[38] Addressing each of the Consumer Advocate's numbered arguments, above, the Companies, argue:

1. HECO is seeking a one-time waiver to exclude the planned outages that occurred in July 2018, not requesting to modify the reliability PIMs via the exclusion request, which it filed in December 2018, "well in advance of the annual decoupling filing in March 2019." The Companies note that they will request, in a separate filing, that all scheduled maintenance related outages and events be removed from SAIDI and SAIFI PIM Measured Performance calculations, and to recalculate their current SAIDI and SAIFI PIM targets and deadbands to remove scheduled maintenance related outages and update their PIM tariffs accordingly.[39]

2. "Excluding these planned outages from the 25kV splice replacement work from the PIM calculation is consistent with the intent, spirit, and purpose of the reliability PIMs as the work was done to maintain and improve reliable service."

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[38]Companies' Reply, Exhibit 1 at 15.

[39]Companies' Reply, Exhibit 1 at 16-18. The Companies additionally argue that "in promulgating the PIM tariff, the [c]ommission showed that it was retaining flexibility regarding the implementation, application and content of the PIMs[,]" and that "Docket No. 2018-0088 (PBR Investigation) is not a more appropriate docket in which to make this request[, because] it is specific to the circumstances in 2018 and the Company's performance during that time is not the subject of the PBR docket." Id. at 18-19.

3. The Companies state that HECO never claimed that it made the exclusion request because "it was the primary driver of poor reliability performance throughout 2018[,]" but rather that it was because of "the unique nature of the project and the benefits to customers of performing this work proactively." The Companies argue that the Consumer Advocate's comments also "overlook the normal variance in reliability from month to month[,]" and provide monthly SAIDI and SAIFI performance data for 2008-2017.[40]

4. The Companies argue that if it were to adopt the Consumer Advocate's suggestion to exclude planned maintenance outage events from measured performance from the prior 10 years in order for the 2018 performance targets to remain comparable, the Companies "believe the targets (and thus the results here) would not materially change." The Companies reiterate the unique circumstances surrounding the 25kV splice replacement work, and that in HECO's examination of whether there were planned outages in the previous 10 years under comparable circumstances, the review identified only one project in the 2013-2014 timeframe due to failing 12kV "oil insulated manual switching equipment[,]" although the replacement work required for this project "did not impact the same magnitude of customers."[41]

5. The Companies do not agree with the Consumer Advocate that the Companies will be more likely to avoid reliability PIM penalties in the future due to better reliability performance resulting from the splice replacement work because "it is uncertain what will happen in future years, all things considered, and the relevant question is 2018 measured reliability performance and whether reliability penalties should be imposed."[42]

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[40]Companies' Reply, Exhibit 1 at 21-24.

[41]Companies' Reply, Exhibit 1 at 25-28.

[42]Companies' Reply, Exhibit 1 at 28-29.

6. The Companies also argue that the PBR Investigation is not the proper venue to address this issue, due to the timing of that docket, and noting other jurisdictions' allowances for exclusions of planned outages from reliability calculations.[43]

Regarding the issues of retroactive ratemaking, the filed-rate doctrine, and single issue ratemaking, the Companies also argue that they "are not aware of any instance in which the rule against retroactive ratemaking, or the general prohibition against single-issue ratemaking, or the filed-rate doctrine has been applied to prohibit the waiver of all or part of a penalty that a utility would otherwise be required to pay."[44]

1.

Commission Determination

In the course of "recommend[ing] against short circuiting this process through acceptance of after the fact amendments to the previously approved PIM tariffs[,]" the Consumer Advocate points out that, "the Parties in Docket No. 2013-0141 were afforded [] input into the process of establishing initial PIMs."[45] For background, in Docket No. 2013-0141,

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[43]Companies' Reply, Exhibit 1 at 30.

[44]Companies' Reply, Exhibit 1 at 32. See also HECO Response to PUC-HECO-IR-100, filed on May 14, 2019.

[45]CA SOP at 39.

the HECO Companies proposed that the commission adopt a variety of reliability-related PIMS, including a PIM that measured "SAIDI and SAIFI normalized for T&D events, separately reported on an annual basis for [HECO], [HELCO], and [MECO]."[46] At that time, the Companies did not propose to exclude planned outages for system repairs or other maintenance from SAIDI and SAIFI PIM calculations.[47] In addition, the normalized data that the Companies have historically tracked to measure and report SAIDI and SAIFI statistics have incorporated planned outages. The "Key Performance Metrics" on the Companies' website (which include normalized SAIDI and SAIFI data going back to 2005) note that "reliability metrics shown [] for SAIDI, SAIFI, CAIDI, and MAIFI are based on 'normalized' data (i.e., excluding atypical events

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[46]Docket No. 2013-0141, "Hawaiian Electric Companies Reply Statement of Position with Respect to Schedule B Issues; Exhibits A-N; and Certificate of Service," filed on September 15, 2014 ("2013-0141 HECO Reply SOP"), at Exhibit F at 36-37 (emphasis added) (noting that "SAIDI and SAIFI statistics used in [PIMs] generally exclude major events, including the impacts from failures of generating units and transmission lines . . ." and recommending "that measures of reliability that exclude major weather events and also exclude the impacts of failures in generating units be used in a reliability [PIM] in Hawaii[,]" but making no mention of the exclusion of planned outages.)

[47]The Companies normalization guidelines exclude "abnormal" situations, which are defined as situations like "hurricanes, tsunamis, earthquakes, floods catastrophic equipment failures, and single outages that cascade into a loss of load greater than 10% of the system peak load." 2013-0141 HECO Reply SOP, at Exhibit F at 21-22.

such as system problems due to unusually severe weather). While it is important to measure reliability data for all events, normalized data is more reflective of day to day reliability and generally provides a better indication of reliability and reliability trends."[48] The PIM Provision Tariff that resulted from the SAIDI and SAIFI discussions in Docket No. 2013-0141 thus explicitly prescribes terms for the metrics, targets, dead bands and financial incentives based on IEEE Standard 1366 methodology, which includes planned, as well as unplanned, outages in the calculation of the reliability metrics.[49] In pursuing their exclusion request, the Companies argue that they "should not be foreclosed from seeking specific waivers from PIM metric calculations for circumstances that were not expressly considered[,]"[50] but the Docket No. 2013-0141 record, PIM Provision tariff itself, and the Companies' Key Performance Metrics all

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[48]See https://www.hawaiianelectric.com/about-us/key-performance-metrics/service-reliability (emphasis added).

[49]Per the Companies, "IEEE Standard 1366, 'IEEE Guide for Electric Power Distribution Reliability Indices' was developed to foster uniformity in the development of distribution service reliability indices and to provide tools for internal and external comparisons. In addition to providing definitions for key reliability indices, IEEE-1366 provides a consistent and objective method for identifying and removing major event days for the purpose of studying reliability under normal daily operation." https://www.hawaiianelectric.com/about-us/key-performance-metrics/service-reliability

[50]Companies' Reply, Exhibit 1 at 15.

clearly show that the matter of inclusion and exclusion of various specific types of reliability-related events and circumstances, including planned outages such as those underlying the exclusion request, were "expressly considered" in the creation of the SAIDI and SAIFI PIMs.

In support of their exclusion request, the Companies also argue that their request is due to the "one-time" and "unique" nature of the 25kV splice project,[51] noting that "[i]n recent years the system experienced an increasing rate of splice failures . . . when cable vaults and manholes that were typically filled with rainwater were pumped out to allow workers to work on other circuits or to add new customers . . . [and] the only safe way to work in the manholes was to completely de-energize the system, which impacted customer reliability and increased outages."[52] However, in their application filed on May 24, 2019, and assigned Docket No. 2019-0110, the Companies, while noting their "one-time" December 2018 exclusion request, then request that the commission modify the Companies' respective PIM Provision tariffs to exclude

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[51]See, e.g., December 2018 Letter at 1; Companies' Reply, Exhibit 1 at 16, 17 ("[HECO] made this one-time waiver request to only exclude outages arising out of the July 2018 25kV splice replacement project for the purposes of the 2018 SAIDI and SAIFI PIMs reporting due to the unique nature of the project.").

[52]December 2018 Letter at 3.

all "Scheduled Maintenance Interruptions" from their SAIDI and SAIFI PIM calculations.[53] The Companies' stated rationale for needing to exclude these "preventative maintenance and other proactive measures" is that "Scheduled Maintenance Interruptions have increased for [HECO] in recent years compared to historical levels due in large part to increases in asset management programs such as replacement of failure prone direct buried cable, potential PCB distribution transformers, and deteriorated wood poles."[54] The Companies further state that "[t]his level of Scheduled Maintenance Interruptions is expected to continue for [HECO] and potentially increase for [MECO] and [HELCO] due to ongoing or expected increases in asset management and other work to address aging and problematic infrastructure, modernize the grid, build resilience and improve reliability."[55] Given these statements, the commission cannot view the "proactive safety and replacement work"[56] for the 25kV splice replacement project as a "one-time" or "unique" event, but rather, observes that this was

[53]Docket No. 2019-0110, "Hawaiian Electric Companies Application; Exhibits 1-3; Verification; and Certificate of Service," filed on May 24, 2019 ("Docket No. 2019-0110 Application"), at 17-18.

[54]Docket No. 2019-0110 Application at 19.

[55]Docket No. 2019-0110 Application at 19.

[56]December 2018 Letter at 1.

scheduled preventative maintenance work of the type that both was contemplated by the SAIDI and SAIFI PIMs in the PIM Provision tariff, and that falls within a category of "Scheduled Maintenance Outages" that the Companies expect to continue, or increase, in the future. The commission does not make any determination about the Companies' Docket No. 2019-0110 requests here,[57] but simply notes that the information contained in the Docket No. 2019-0110 application provides context for considering HECO's exclusion request set forth in its December 2018 Letter.

The Companies also on the one hand argue that "PIM penalties should not be imposed for conduct that serves other desired outcomes[,]"[58] – that is, HECO should not be subjected to "financial penalty for actions that addressed safety and will benefit customers over the long run[,]"[59] but then on the other hand argue that "better reliability performance resulting from the splice replacement work . . . is speculative as it is uncertain what will happen in future years, all things considered . . . ."[60]

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[57]The commission will separately conduct its review of Docket No. 2019-0110 in accordance with the future procedural schedule issued in that docket.

[58]Companies Reply, Exhibit 1 at 15.

[59]December 2018 Letter at 2.

[60]Companies' Reply, Exhibit 1 at 29.

Lastly, consistent with arguments made by the Consumer Advocate, the commission is concerned that allowing an after-the-fact exception to language that is clearly laid out in the PIM Provision tariff would set a misleading precedent for expectations regarding implementation of the PIMs and other performance mechanisms actively being considered by the commission in other venues. While the commission agrees with the Companies that "reasonable exceptions should be considered and granted as warranted on a case by case basis while experience with actual operation of [] PIMs is gained"[61] and is receptive to considering timely-filed proposed changes to PIMs to avoid unintended consequences, as discussed above, the 25kV splice project was work of the type that was anticipated by the SAIDI and SAIFI PIMs, and thus the commission determines that it cannot approve the Companies' exclusion request. As noted above, the commission intends to explore the Companies' requested changes to the PIM Provision tariff in Docket No. 2019-0110, as appropriate, however, given the circumstances of the 25kV splice project, the commission declines to grant HECO's exclusion request for exceptions to criteria that are clearly stated, and for events of a

[61]Companies' Reply, Exhibit 1 at 15.

nature contemplated in the development of, the existing PIM Provision tariff.

D.

West Loch Photovoltaic Project

HECO included revenue recovery for the West Loch Photovoltaic Project ("West Loch PV Project") in the RAM Revenue Adjustment proposed in its Transmittal No. 19-01 filing (Attachment 2, Schedule D3), noting that it is currently also seeking separate revenue recovery for that Project via the Major Project Interim Recovery ("MPIR") adjustment mechanism.[62] "Should the [c]ommission approve recovery through the MPIR adjustment mechanism, [HECO] will remove this project from its Rate Base RAM calculation and include a MPIR revenue adjustment related to this project."[63]

As the commission stated in Decision and Order No. 34676, filed in Docket No. 2016-0342, on June 30, 2017, "the commission is inclined to grant interim cost recovery for the [West Loch PV] Project in accordance with the MPIR Guidelines[,]" pending further

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[62]Transmittal No. 19-01 at 22-23.

[63]Transmittal No. 19-01 at 23.

briefing on the matter.[64] Pursuant to HECO's response to a commission information request regarding the West Loch PV Project in-service date, filed on May 14, 2019, "[a]s of this filing, [HECO's] targeted in-service date for the West Loch PV Project is September 2019."[65] The commission issued Order No. 36335 on May 29, 2019, in Docket No. 2016-0342, reiterating its intent to allow interim recovery through the MPIR adjustment mechanism for the West Loch PV Project. As such, the commission approves the version of HECO's RBA Tariff that removes the West Loch PV Project from the RAM Revenue Adjustment.

In the Stipulated Revision, HECO Scenario #4, Attachment 2C includes a 2019 RBA Rate Adjustment, projected target revenues, and supporting exhibits reflecting removal of West Loch PV from the RAM Revenue Adjustment, as well as inclusion of the 25kV splice project planned outages in the SAIDI/SAIFI PIM, discussed above. Given the commission's determination on both of these outstanding issues, the commission approves the HECO RBA Tariff, RBA Rate Adjustment, and RAM Revenue Adjustment set forth in the Stipulated Revision, HECO Scenario #4,

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[64]Docket No. 2016-0342, Decision and Order No. 34676, filed on June 30, 2017, at 36.

[65]HECO Response to PUC-IR-100, filed on May 14, 2019.

Attachment No. 2C, filed with the commission on May 28, 2019, as discussed below in Section II.F.1.

E.

Tariff Modifications

Each of the Companies submitted proposed revisions to their respective RBA Tariffs and PIM Provision Tariffs, reflected in final amended form in the Stipulated Revision filed on May 28, 2019. The proposed revisions to each Company's RBA Tariff include:

(1) Revised RBA Rate Adjustment amounts;

(2) Restatement of target revenues to be currently in effect and updated associated historical reference documenting previous changes to target revenues; and

(3) Additional language clarifying the allowance of future commission-approved adjustments that will be flowed through the RBA Rate Adjustment.

The proposed revisions to each Company's PIM Provision Tariff include:

(1) Added language clarifying allowance for the Companies to incorporate the establishment and implementation of any future commission-approved PIMs.

In addition, MECO proposes changes to its RAM Provision Tariff to remove obsolete language addressing specific moot circumstances.[66]

F.

Changes Effective June 1, 2019

After review of the filings in this matter, and pursuant to the commission determinations above, the commission approves the following changes (as reflected in the Stipulated Revision, filed on May 28, 2019) to become effective on June 1, 2019:

1.

HECO

The commission approves HECO's proposed RBA Rate Adjustment of .9376 cents per kilowatt-hour;[67] proposed annual target revenues of $636,136,000;[68] the RBA and RAM Revenue Adjustment identified and supported by the Stipulated Revision,

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[66]Stipulated Revision, MECO Attachment 1, Tariff Sheets: 96G, 96H, and 96I for the Maui Division; 107G, 107H, and 107I for the Lanai Division; and 151G, 151H, and 151I for the Molokai Division.

[67]Stipulated Revision, HECO Scenario #4, Attachment No. 1, Tariff Sheet 92D, superseding RBA Rate Adjustment effective June 1, 2018.

[68]Stipulated Revision, HECO Scenario #4, Attachment No. 1, Tariff Sheet 92E.

HECO Scenario #4, Attachment No. 2C; and the revised index, RBA Tariff, and PIM Provision Tariff sheets provided in the Stipulated Revision, HECO Scenario #4, Attachment 1.[69]

2.

HELCO

The commission approves HELCO's proposed RBA Rate Adjustment of .9069 cents per kilowatt-hour;[70] proposed annual target revenues of $152,714,000;[71] the RBA and RAM Adjustments supported by the Stipulated Revision, HELCO Attachment #2; and the revised index, RBA Tariff, and PIM Provision Tariff sheets provided in the Stipulated Revision, HELCO Attachment 1, filed May 28, 2019.

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[69]Stipulated Revision, HAWAIIAN ELECTRIC, SCENARIO 4, WEST LOCH PV EXCLUDED FROM RAM REVENUE ADJUSTMENT,25kV INCLUDED IN 2018 SAIDI AND SAIFI PIM CALCULATIONS, Attachment 1, filed on May 28, 2019.

[70]Stipulated Revision, HELCO Attachment 1, Tariff Sheet 91D, superseding RBA Rate Adjustment effective June 1, 2018.

[71]Stipulated Revision, HELCO Attachment 1, Tariff Sheet 91E.

3.

MECO

The commission approves MECO's proposed RBA Rate Adjustment of .8716 cents per kilowatt-hour;[72] proposed annual target revenues of $149,842,000,[73] the RBA and RAM Adjustments supported by the Stipulated Revision, MECO Attachment 2; and the revised index, RBA Tariff, RAM Provision Tariff, and PIM Provision Tariff sheets provided in the Stipulated Revision, MECO Attachment 1, filed on May 28, 2019.

III.

Orders

THE COMMISSION ORDERS:

1. HELCO's Transmittal No. 19-02, and MECO's Transmittal No. 19-03, as amended by the Stipulated Revision, filed on May 28, 2019, and HECO's Transmittal No. 19-01, as amended by the Stipulated Revision, HECO Scenario #4, filed on May 28, 2019, including the revised RBA Rate Adjustments,

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[72]Stipulated Revision, MECO Attachment 1, Tariff Sheets 97E, 108E, and 152E, for the Maui, Lanai and Molokai divisions respectively, all superseding RBA Rate Adjustments effective June 1, 2018.

[73]Stipulated Revision, MECO Attachment 1, Tariff Sheets 97F, 108F, and 152F for the Maui, Lanai, and Molokai divisions respectively.

target revenues, RBA and RAM Provision adjustments, and tariff sheets provided therein, are approved, as set forth in this Order, and shall go into effect for each of the HECO Companies, respectively, on June 1, 2019.

2. The commission approves the proposed RBA Tariff modifications, RAM Provision Tariff modifications, and PIM Provision Tariff modifications, as set forth above.

DONE at Honolulu, Hawaii MAY 29 2019.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By James P. Griffin
James P. Griffin, Chair

By Jennifer M. Potter
Jennifer M. Potter, Commissioner

By
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:

Caroline C. Ishida
Caroline C. Ishida
Commission Counsel

Transmittal Nos. 19-01, 19-02, 19-03.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:

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