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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Water & Land
Thursday, April 11, 2024
9:00 a.m.
Conference Room 430**

**On the following measure:
S.C.R. 182, S.D. 1, URGING THE PUBLIC UTILITIES COMMISSION TO
HONOR AND COMPLY WITH ITS STATUTORY DUTY TO INVESTIGATE
THE CAUSES OF THE AUGUST 2023 MAUI WILDFIRES AS REQUIRED BY
SECTION 269-9, HAWAII REVISED STATUTES**

Chair Ichiyama and Members of the Committee:

My name is Michael Angelo, and I am the Executive Director of the Department of Commerce and Consumer Affairs (Department) Division of Consumer Advocacy. The Department provides comments on this resolution.

The purpose of this resolution is to urge the Public Utilities Commission (Commission) to honor and comply with its statutory duty to investigate the causes of the August 2023 Maui Wildfire as required by Hawaii Revised Statutes (HRS) § 269-9, to formally open a docket to investigate the causes of the August 2023 Maui Wildfires, and submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than 20-days prior to the convening of the Regular Session of 2025. In addition, this resolution urges the Commission to: (1) request from the County of Maui an unredacted version of the investigative finding of the United States Bureau of

Alcohol, Tobacco, and Firearms and Explosives (ATF) National Response Team and Honolulu Field office that were, or will be, provided to the Maui Fire Department for inclusion in the Maui Fire Department's origin and cause report for the August 2023 Maui wildfires; (2) regulate each electric utility more proactively in the public interest and use its investigatory powers to examine the condition of each electric utility pursuant to HRS § 269-7, to ensure that essential utility services are delivered to consumers in a safe, reliable, economical, and environmentally sound manner; (3) require each electric utility to prepare, submit, and implement a robust and effective wildfire mitigation plan; (4) implement reliability standards and interconnection for each electric utility pursuant to HRS Chapter 269, Part IX; (5) proactively direct each electric utility to implement frequently reviewed, systematic, and recurring renewable energy procurement plans, which shall include plans for distributed energy resource renewable generation, utility-scale resource renewable generation, and community-based renewable energy projects, to replace fossil fuel power plant facilities and achieve the State's renewable portfolio standards established by HRS § 269-92; and (6) publicly share information relating to the briefing with the electric utility that occurred on March 4, 2024, including any resulting findings, recommendations, and directives of the Commission.

The tragedy and devastation of the wildfires that arose on Maui during the August 8, 2023, windstorm must be prevented from recurring. The Department views the on-going investigatory efforts into the causes of the wildfires and subsequently undertaking the necessary mitigative efforts to drastically reduce wildfire risk from utility infrastructure as critical to mitigating the risk from future catastrophic wildfires. To those ends, the Department strongly supports investigation into the causes of the wildfires that occurred on Maui and notes that the Department of Attorney General announced the release of the Phase One report on the independent investigation into the Maui wildfires will occur on April 17, 2024.¹ The Phase One report, includes the analysis of the Fire Safety Research Institute (FSRI) and "analyzes how the fire incident unfolded, based on science, during the first 24 to 72 hours of the fire and its aftermath, and includes a comprehensive timeline of events."

¹ See <https://ag.hawaii.gov/wp-content/uploads/2024/03/News-Release-2024-12.pdf>.

The Department also expresses its strong support for the electric utilities developing and implementing robust and effective wildfire mitigation plans. On September 18, 2023, in Docket No. 2022-0135, the Department recommended that the Commission open a new docket under HRS § 269-7 to assess the vulnerabilities of the systems of Hawaii's regulated utilities to threats and disasters, whether they be manmade or caused by extreme natural events. The proposed proceeding would allow for identification and a thorough assessment of critical vulnerabilities to the State's regulated utility systems, and risk mitigations to be proposed, evaluated, and prioritized. The targeted outcome of such an effort would be to support the development of plans that rely on risk assessments prioritizing mitigation measures that should be implemented to address critical vulnerabilities efficiently and cost-effectiveness. Since that time, the Commission issued Order No. 40396 requiring that all public utilities file hazard mitigation plans in non-docketed Case No. 2023-04661, which are now required to be filed by August 21, 2024.

The Department also strongly supports utility services being delivered to consumers in a safe, reliable, economical, and environmentally sound manner. The Department offers that the existing Performance Incentive Mechanisms for service reliability indices developed in Docket No. 2018-0088 provide an incentive for electric utilities on Oahu, Maui County, and Hawaii Island to maintain reliable service for their respective ratepayers. The Department notes that the Hawaiian Electric Companies' Resource Adequacy Workplan, Final Recommendation and Next Steps, was filed with the Commission on November 16, 2023, in response to the Commission instructing them to explore an alternative resource adequacy criteria for use in the future rounds of the integrated grid planning process. Additionally, the Division notes that the Commission has ordered the Hawaiian Electric Companies to plan for three-year cycles of procurement for utility-scale renewable energy projects as part of an Integrated Grid Planning process² and the Kauai Island Utility Cooperative has set an aggressive goal of

² See Order No. 40651 in Docket No. 2018-0165, issued on March 7, 2024.

achieving and maintaining 100% renewable generation by 2033, 12 years ahead of the State's renewable portfolio standards mandate.³

The Department strongly supports the sharing of information relating to the briefing with the electric utility that occurred on March 4, 2024, including any resulting findings, recommendations, and directives of the Commission.

Thank you for the opportunity to testify on this resolution.

³ [See Objective 2.1 of Strategic Plan Update 2023-2033 \(Adopted January 2023\),
https://kiuc.coop/sites/default/files/KIUC%20Strategic%20Plan%202023_2033%20FINAL.pdf.](https://kiuc.coop/sites/default/files/KIUC%20Strategic%20Plan%202023_2033%20FINAL.pdf)

TESTIMONY OF
THE
PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
WATER AND LAND

April 11, 2024
9:00 a.m.

Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee:

MEASURE: S.C.R. 182 S.D. 1

TITLE: URGING THE PUBLIC UTILITIES COMMISSION TO HONOR AND COMPLY WITH ITS STATUTORY DUTY TO INVESTIGATE THE CAUSES OF THE AUGUST 2023 MAUI WILDFIRES AS REQUIRED BY SECTION 269-9, HAWAII REVISED STATUTES.

POSITION:

The Public Utilities Commission (“Commission”) offers the following comments for consideration.

COMMENTS:

The Commission appreciates the intent of this resolution to ensure that the Commission is fulfilling its statutory duties and investigating accidents involving regulated public utilities, as well as addressing other regulatory issues such as electric reliability and resource procurement. The Commission’s fundamental role is to ensure that Hawaii residents have access to essential utility services, and the Commission and its staff work diligently every day to ensure that such services are delivered safely and in the most economic and environmentally sound manner possible. The devastating events on August 8th, 2023, reconfirm and renew the Commission’s focus on its most core functions in service of the public interest.

The Commission takes this opportunity to share with the Committee its efforts and plans aligned with the tasks within this resolution.

Statutory duty to investigate the causes of the August 2023 Maui wildfires:

The Commission is affirmatively fulfilling its statutory mandate under HRS Section 269-9. Actions the Commission has taken under this authority include, but are not limited to:

- Issuing information requests to the Hawaiian Electric Companies related to the Lahaina Morning (August 2023) and Waianae Fires (November 2023) to investigate the grid engineering and operational aspects of fire causes and response, as well as to build guidance for future utility wildfire mitigation plan filings;
- At the request of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), assigning two senior staff members to support the joint Maui Fire Department and ATF investigation into causation of the August Maui wildfires;
- Timely responding to inquiries from the Hawaii Attorney General’s (“AG”) Office related to the AG’s Office investigation into the wildfires;
- Serving on the State’s Wildfire Risk Reduction Task Force, focused on statewide emergency response, communications, and risk-informed decision making and the Office of Homeland Security’s Critical Infrastructure Working Group, focused on mitigating vulnerabilities and threat exposure of critical infrastructure;
- Communicating extensively with the California Earthquake Authority (administrator of the California Wildfire Fund), California Public Utilities Commission, and California Office of Infrastructure Safety, which have provided a number of resources and information about wildfire response in California that could be applicable to or adapted for Hawaii;
- Creating a Maui Wildfires Information, Updates & Resources webpage on the PUC’s website to share important non-docketed orders/reports and other information with the public and media;
- Directing all identified public utilities in the State (includes electric, gas, water/wastewater, water carriers, and telecom utilities) to file Natural Hazard Mitigation Reports to address natural hazards and detail the costs to the respective utilities of hazard mitigation efforts both near and long-term, including wildfires;
- Ordering a continuation of disconnection suspensions on Maui for the protection of Maui utility customers during the pendency of the Governor’s emergency proclamations related to the wildfires;

- This includes an ongoing requirement that all Maui utilities (including Maui Electric) provide 60-days advanced notice to the Commission related to transfer of property or stocks, or any mergers, change of control, or other major financial change;
- Requesting status updates in all pending Hawaiian Electric dockets to better track the Hawaiian Electric Companies' prioritization of dockets and financial situation post-wildfires;
- Issuing Decision & Order No. 40566 in Docket No. 2022-0135 in January 2024 on the Hawaiian Electric Companies' proposed Climate Adaptation Transmission and Distribution Resilience Program (which includes \$95M in matching reimbursable funds from U.S. Department of Energy) to improve resiliency of its electric grid given Hawaii's increasing vulnerability to severe weather events;
- Analyzing the Hawaiian Electric Companies' application to create a credit facility utilizing its accounts receivable in Docket No. 2024-0040;
- Reviewing utility accident reporting requirements and procedures to ensure that they are timely, effective, and modernized; and
- Requiring electric utilities to provide updates on their red-flag warning procedures and protocols.

The Commission continues to analyze and assess the adequacy of the responses from its inquiries and is poised to take action, as appropriate.

Open a Docket to Investigate the Causes of the August 2023 Maui Wildfires

The Commission is currently scoping the next phases of its investigations, including exploring what a docketed proceeding may cover and how it may best be structured. The Commission anticipates this will include investigation into the cause of the fire, to the extent that this can be determined within the Commission's expertise, and any contributing issues related to the utility's grid infrastructure and operations.

Report to the 2025 Legislature on its findings:

The Commission will provide such a report to the 2025 Legislature.

Request an unredacted version of investigative findings from ATF:

The Commission, via its assigned staff, are in communication with ATF about its report and understand that the Commission can request a copy. ATF has also stated that they will be available to answer questions about its report as needed.

Investigate the condition of each regulated utility:

The Commission proactively employed its investigative powers and opened Case No. 2023-04661 on November 21, 2023.¹ Order No. 40396 directed all public utilities to file a natural hazard mitigation report with the Commission detailing ongoing efforts and future mitigation plans to address natural hazards in relation to their provision of utility services, operations, and expenditures. These reports will be filed in August of this year², at which time the Commission will review and assess the plans. The Commission expects that future expenditures and operational decisions by all utilities will align with these plans in furtherance of public safety and resilience to many different natural hazards.

Regarding electric utility services, the Commission established a Performance-Based Regulation (“PBR”) framework in 2021 that governs the Hawaiian Electric Companies and directly ties their profits to the objectives outlined in this resolution. The PBR framework includes financial penalties for poor electric service reliability, incentives to control costs across all business functions, and rewards for aggressively integrating renewable energy onto the system, among other State priorities. The Commission recently initiated a holistic review of the PBR framework to ensure that it is functioning as intended, that it is effectively driving utility performance, and to identify any necessary updates to address priorities such as wildfire mitigation.

Require each electric utility to implement a wildfire mitigation plan:

As part of its regulatory oversight, the Commission has investigated the actions of Hawaiian Electric to address fire risks across its territories. The Commission oversees all electric utilities’ spending and programs regarding vegetation

¹ See: <https://hpuc.my.site.com/cdms/s/puc-case/a2G8z00000G7xREAS/pc183087?tabset-a3299=3>.

² In Order No. 40669, the Commission approved Hawaiian Electric’s request for extension of time to file natural hazard mitigation reports. The approval grants a three-month extension, from May 21, 2024 to August 21, 2024 for all covered utilities.

management, asset management, resilience, and risk management, and has also issued multiple inquiries into past fires.³

Moving forward, the Commission will require electric utilities to file comprehensive wildfire mitigation plans. The Commission has supported legislation on wildfire mitigation planning and funding throughout this session. The Commission is also aware that Hawaiian Electric is updating its wildfire mitigation plan, that the Kauai Island Utility Cooperative is in the process of finalizing its plan, and that all utilities are developing natural hazard mitigation plans as ordered by the Commission to ensure preparedness for disasters beyond wildfires, as discussed above.

Implement electric reliability standards and interconnection requirements:

The Commission has addressed reliability and interconnection requirements in multiple venues over many years. For example, the Commission adopted reliability indices that are commonly used across the electric industry to measure system reliability. The Commission assesses the Hawaiian Electric Companies on their performance with regards to the System Average Interruption Duration Index (“SAIDI”) and the System Average Interruption Frequency Index (“SAIFI”), and assesses penalties if achievement is not up to established standards. The Commission has also required resource adequacy planning and assessments in the Integrated Grid Planning proceeding and has established a performance incentive to ensure generation unit reliability. With regards to interconnection, the Commission employs an independent engineer to oversee interconnection disputes, resolve technical issues, and provide insights into process improvements. The Commission has also adopted incentives to ensure timely and cost-effective interconnection processes.

Moving forward, the Commission is pursuing many of the recommendations outlined by the independent engineer to improve interconnection processes, as outlined in a recent decision addressing the Hawaiian Electric Companies’ Integrated Grid Plan and is supporting legislation to strengthen and expand existing law relating to the hiring of a Hawaii Electric Reliability Administrator

³ For a more detailed list of activities, please see page 3 of the Commission’s response to the U.S. House of Representatives Subcommittee on Oversight and Investigations at: <https://docs.house.gov/meetings/IF/IF02/20230928/116431/HHRG-118-IF02-20230928-SD003.pdf>.

(“HERA”) to oversee electric system reliability and resilience to support the Commission’s work.⁴

Direct electric utilities to implement a recurring renewable energy procurement plan:

As stated above, the Commission has overseen three rounds of solicitations for utility-scale renewable energy procurements across the Hawaiian Electric Territories since 2018. Additionally, the Commission reviews capital and operational plans for the Kauai Island Utility Cooperative.

As part of the Commission’s recent approval of the Hawaiian Electric Companies’ Integrated Grid Plan (“IGP”), the Commission directed the utilities to update the Plan at regular intervals, with near-term action plan updates occurring annually. These documents will guide the next round of renewable energy procurements, known as the IGP Request for Proposals (“RFP”). The Hawaiian Electric Companies issued the draft IGP RFP for public comment earlier this month and will file a formal application with the Commission for approval to move forward with the procurement at the end of April. The IGP RFP seeks to meet grid needs through 2033 via regular solicitations, each occurring about 14 months apart. The Commission has already begun to recommend ways that this series of procurements can advance energy equity, and will oversee the processes, in conjunction with independent observers and engineers, to ensure that they are conducted fairly and in furtherance of State policies.

Share information on the March 4, 2024 briefing:

The briefing slides are available on the Commission’s Content and Document Management System.⁵

Thank you for the opportunity to testify on this measure.

⁴ For a more detailed report on the Commission’s work and recommendations to improve reliability and interconnection processes, see: <https://puc.hawaii.gov/wp-content/uploads/2024/01/2024-PUC-Report-Act-201-12.28.23-FINAL.pdf/>

⁵ See “Letter From: K. Katsura To: Commission Re: Docket No. 2021-0024 - Opening a Proceeding to Review Hawaiian Electric's Interconnection Process and Transition Plans for Retirement of Fossil Fuel Power Plants; Generation and Reliability Update”, filed March 6, 2024: <https://hpuc.my.site.com/cdms/s/puc-case/a2G8z0000007f6IEAQ/pc20643?tabset-a3299=3>.