

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Investigation of)  
HAWAIIAN ELECTRIC COMPANY, INC. )  
Related to Island-wide Outage of )  
December 26, 2008. )  
\_\_\_\_\_)

DOCKET NO. 2009-0005

ORDER ADOPTING STIPULATED PROCEDURAL ORDER

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

PUBLIC UTILITIES  
COMMISSION

2009 MAR 10 P 12:08

FILED

OF THE STATE OF HAWAII

In the Matter of the Investigation of)  
HAWAIIAN ELECTRIC COMPANY, INC. )  
Related to Island-wide Outage of )  
December 26, 2008. )  
\_\_\_\_\_ )

ORDER ADOPTING STIPULATED PROCEDURAL ORDER

By this Order, the commission adopts the proposed Stipulated Procedural Order filed by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") and the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate")<sup>1</sup> (collectively referred to as the "Parties") on February 18, 2009.

I.

## Background

HECO is a Hawaii corporation and public utility as defined by HRS § 269-1 and, thus, is subject to commission jurisdiction under Chapter 269, HRS. HECO, a wholly-owned subsidiary of Hawaiian Electric Industries, Inc., is engaged in

<sup>1</sup>The Consumer Advocate is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

the production, purchase, transmission, distribution, and sale of electricity on the island of Oahu in the State of Hawaii.<sup>2</sup>

On December 26, 2008, at about 6:35 p.m. large portions of the island of Oahu experienced power losses and on or about 8:30 p.m. an island-wide power outage occurred on Oahu ("Oahu Island-Wide Outage").

On January 12, 2009, the commission issued its Order Initiating Investigation of the 2008 Oahu Island-Wide Outage ("Initiating Order"). In that order, the commission directed the Parties (and intervenors and participants, if any) to file a stipulated prehearing (or procedural) order for the commission's review and approval within thirty days of the commission's order addressing intervention or participation without intervention; or if no such motions are filed, within fifteen days of the deadline for intervention.<sup>3</sup>

No motion to intervene or participate without intervention was filed in this docket.<sup>4</sup> Hence, the deadline for the Parties to timely file their proposed Stipulated Procedural Order was February 17, 2009. However, the Parties filed their proposed stipulated document on February 18, 2009; thus, the Parties' proposed Stipulated Procedural Order was untimely.

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<sup>2</sup>HECO was initially organized under the laws of the Kingdom of Hawaii on or about October 13, 1891.

<sup>3</sup>See Initiating Order at 9.

<sup>4</sup>The deadline to file a motion to intervene or participate was February 2, 2009.

The Parties have not moved for an enlargement of time claiming excusable neglect under HAR § 6-61-23(a)(2).<sup>5</sup> Nonetheless, the commission finds that the issuance of a procedural order in this docket will aid in the "just, speedy, and inexpensive determination of [this] proceeding[,]" consistent with HAR § 6-61-1. Accordingly, the commission will review the Parties' untimely proposed Stipulated Procedural Order.

## II.

### Discussion

Under the proposed Stipulated Regulatory Schedule, which is attached to the Parties' proposed Stipulated Procedural Order, the last deadline is the filing of "Hawaiian Electric['s] Final Statement of Position, if necessary" on January 29, 2010. The commission, however, had expected that the proceeding would be ready for decision-making, and that it would be able to issue its decision and order in this docket before the close of 2009. The commission is aware of the number of commission dockets in

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<sup>5</sup>HAR § 6-61-23(a)(2) states in pertinent part:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

. . . . .

- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect[.]

HAR § 6-61-23(a)(2).

which the Parties are actively involved,<sup>6</sup> which appears to have affected the Parties' proposed schedule for this proceeding. Given that workload, the commission will accept the Parties' Stipulated Regulatory Schedule. However, any requests for extensions of time will be fully scrutinized and will only be granted upon a demonstration of extenuating circumstances.

Given the above, the commission concludes that the Parties' proposed Stipulated Procedural Order, filed on February 18, 2009, and attached as Exhibit A to this Order, should be adopted to govern the proceedings in this docket.

### III.

#### Order

#### THE COMMISSION ORDERS:

The Parties' proposed Stipulated Procedural Order, filed on February 18, 2009, and attached as Exhibit A to this Order, is adopted by the commission to govern the proceedings of this docket.


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<sup>6</sup>Among other matters, the Parties are involved in Docket Nos. 2008-0273 (Feed-in Tariff Docket); 2008-0274 (Decoupling Docket); and 2008-0083 (HECO 2009 Rate Case Docket).

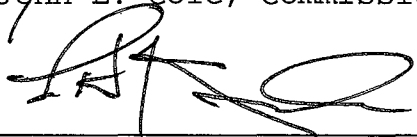
DONE at Honolulu, Hawaii

MAR 10 2009


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Ji Sook Kim  
Commission Counsel

2009-0005.ps

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Docket No. 2009-0005

FILED  
2009 FEB 18 P 3:51  
PUBLIC UTILITIES  
COMMISSION

STIPULATED PROCEDURAL ORDER

EXHIBIT A

CERTIFICATE OF SERVICE

EXHIBIT A


BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII


In the Matter of the Investigation of	)	
	)	
HAWAIIAN ELECTRIC COMPANY, INC.	)	Docket No. 2009-0005
	)	
Related to the Island-wide Outage of	)	
December 26, 2008.	)	
_____	)	

STIPULATED PROCEDURAL ORDER

Hawaiian Electric Company, Inc. and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs hereby stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

DATED: Honolulu, Hawaii, February 18, 2009.

  
\_\_\_\_\_  
JON S. ITOMURA  
LANE H. TSUCHIYAMA  
Attorneys for  
DIVISION OF CONSUMER ADVOCACY  
DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS

  
\_\_\_\_\_  
KENT D. MORIHARA  
KRIS K. NAKAGAWA  
Attorneys for  
HAWAIIAN ELECTRIC COMPANY, INC.



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Investigation of	)	
	)	
HAWAIIAN ELECTRIC COMPANY, INC.	)	Docket No. 2009-0005
	)	
Related to the Island-wide Outage of	)	
December 26, 2008.	)	
_____	)	

STIPULATED PROCEDURAL ORDER

By Order Initiating Investigation of the 2008 Oahu Island-Wide Outage, filed January 12, 2009, in Docket No. 2009-005 (“Order”), the Commission opened an investigative proceeding to examine Hawaiian Electric Company, Inc.’s (“Hawaiian Electric”) island-wide power outage on the island of Oahu beginning on December 26, 2008 (“Power Outage”).

In the Order, Hawaiian Electric and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the “Consumer Advocate”) (collectively the “Parties”) were made parties to the investigative proceeding.

In the Order, the Commission directed the Parties to submit a stipulated prehearing (or procedural) order for the Commission’s review and approval within thirty days of the Commission’s order addressing intervention or participation without intervention; or if no such motions are filed, within fifteen days of the deadline for intervention.

Hawaiian Electric and the Consumer Advocate have reached agreement on the procedural matters and submit this Stipulated Procedural Order which is acceptable to both parties.

ACCORDINGLY, IT IS ORDERED that the following Statement of the Issues, Schedule of Proceedings, and procedures shall be utilized in this docket.

## **I. STATEMENT OF THE ISSUES**

The issues in this case are:

1. What caused the Power Outage?
2. If lightning strikes during the lightning storm initially caused the power outage, could Hawaiian Electric have reasonably prevented damaging effects of lightning strikes to prevent the power outage from initially occurring?
3. Through reasonable measures could Hawaiian Electric have prevented the Power Outage or prevented it from becoming island-wide?
4. Could Hawaiian Electric have reasonably shortened the duration of the power outage and restored power more quickly to customers?
5. What are the necessary steps to prevent similar power outages in the future, to minimize the scope and duration of similar power outages, and also to improve Hawaiian Electric's response to such power outages in the future?
6. What penalties, if any, should be imposed on Hawaiian Electric?

## **II. SCHEDULE OF PROCEEDINGS**

The parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule attached hereto as Exhibit "A". Notwithstanding the above, the parties may amend the Stipulated Regulatory Schedule as may be agreed in writing from time to time; provided that the requesting party or parties receive the Commission's approval in accordance with Hawaii Administrative Rules ("HAR") § 6-61-23, to the extent applicable. However, the intent of the parties in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources. Therefore, any changes to the schedule should be

proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

### **III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS**

#### **A. Requests for Information**

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. To the extent practical, Hawaiian Electric and the Consumer Advocate will cooperate (1) by exchanging information requests and responses as they become available, and (2) by resolving questions regarding information requests and responses informally to attempt to work out problems with respect to understanding the scope or meaning of information requests, or with respect to the availability of information. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information. If the parties are unable to agree, the responding party may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the party to respond.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request shall make the

diskette or such electronic medium available to the other parties and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all formulae intact, and will not be entirely converted to values prior to submission.

A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part B, infra. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document.<sup>1</sup> In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential

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<sup>1</sup> As practical, each party will cooperate in making available documents that are already on file with the Commission or otherwise part of the public record and in reproducing (at reasonable charges), such public record documents as well as voluminous material referenced by such parties, designated by the requesting parties and/or making available one copy of the designated documents for loan for a reasonable period of

information to some or all representatives of the party pursuant to a protective order governing this docket.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each party to information requests shall adhere to a uniform system of numbering agreed upon by the parties. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1," and a response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document.

Generally, exhibits should include appropriate footnotes, or narratives inserted in the related testimony, setting forth the sources of the information used and explaining the methods employed in making statistical compilations or estimates.

**B. Matters of Public Record**

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that Hawaiian Electric has filed with the Commission, published decisions of this or other Commissions, published scientific or economic statistical data, material and textbooks, technical or industry journals relating to electric utility matters, and specified parts of the record in previous Commission dockets shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number,

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time to be reproduced by the requesting party.

and the identified document is available for inspection by the Commission and the parties; and further provided that any party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a party proffers such document for admission as evidence in this case.

From time to time, the parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

**C. Copies of Testimony, Exhibits and Information Requests**

**1. Copies of Filings, Information Requests, Responses to Information Requests, Statement of Position:**

Commission	Original + 8 copies
Hawaiian Electric	3 copies
Consumer Advocate	3 copies

2. All pleadings, briefs and other documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-16 of the Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-15 of the Commission's Rules of Practice and Procedure.

3. Copies of all filings, information requests and information request responses should be sent to the other parties by hand delivery or United States mail (first class, postage prepaid). In addition, if available, all parties shall provide copies of their filings, information requests and information request responses to the other parties via diskette, CD or e-mail in a standard electronic format that is readily available by the parties. The parties agree to use Word 97, Word 2000 or Word 2003 as the standard programming format for filings in this case.

However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a party via diskette, CD or e-mail, unless otherwise agreed to by such party, the same number of copies of such filing, information request or information request response must still be delivered to such party by hand delivery or United States mail (first class, postage prepaid) as provided above.

**D.     Communications**

Chapter 61, Subchapter 3, Section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall also be served on opposing counsel.

**E.     General**

These procedures are consistent with the orderly conduct of this docket. Pursuant to Chapter 61, Subchapter 3, Section 6-61-37 of the Commission's Rules of Practice and Procedure,

this Stipulated Procedural Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearing to prevent manifest injustice.

This Stipulated Procedural Order may be executed by the parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The parties may execute this Stipulated Procedural Order by facsimile for initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

DONE at Honolulu, Hawaii, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By \_\_\_\_\_  
Carlito P. Caliboso, Chairman

By \_\_\_\_\_  
John E. Cole, Commissioner

By \_\_\_\_\_  
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

By \_\_\_\_\_  
Ji Sook Kim  
Commission Counsel



## **EXHIBIT A**

### **Stipulated Regulatory Schedule**

Outage Report	March 31, 2009
Technical Meeting between Hawaiian Electric and the Consumer Advocate	April 29, 2009
Hawaiian Electric Preliminary Position Statement	June 30, 2009
Technical Meeting between Hawaiian Electric and Consumer Advocate	July 20, 2009
Consumer Advocate Information Requests ("IRs") to Hawaiian Electric	August 18, 2009
Hawaiian Electric Responses to Consumer Advocate IRs	September 17, 2009
Technical Meeting between Hawaiian Electric and the Consumer Advocate	October 13, 2009
Consumer Advocate Statement of Position	November 20, 2009
Hawaiian Electric IRs to the Consumer Advocate	December 11, 2009
Consumer Advocate Responses to Hawaiian Electric IRs	January 11, 2010
Hawaiian Electric Final Statement of Position, if necessary*	January 29, 2010

\* If Hawaiian Electric disagrees with the Consumer Advocate's recommendations or if Hawaiian Electric has any updates or supplements to its preliminary position on the procedural issues.

If there are substantial disagreements following the filing of the positions, and the parties cannot resolve the differences by stipulation, the parties shall propose schedule for each to submit their positions on any issues remaining in dispute, including the right to propose a hearing schedule (including the filing of simultaneous post-hearing briefs) for Commission approval.

If Hawaiian Electric determines that a Final Statement of Position is unnecessary, Hawaiian Electric and the Consumer Advocate will notify the Commission that the proceeding is ready for decision making.

CERTIFICATE OF SERVICE

The foregoing Stipulated Procedural Order was served on the date of filing by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813

DEAN K. MATSUURA  
MANAGER, REGULATORY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, Hawaii 96840-0001

KENT D. MORIHARA  
KRIS K. NAKAGAWA  
MORIHARA LAU & FONG LLP  
841 Bishop Street, Suite 400  
Honolulu, Hawaii 96813

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DATED: \_\_\_\_\_

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P.O. Box 541  
Honolulu, HI 96809

DEAN MATSUURA  
MANAGER  
REGULATORY AFFAIRS  
HAWAIIAN ELECTRIC COMPANY, INC.  
P.O. Box 2750  
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