

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

WILLIAM K. BAUER)
)
 Complainant,)
)
 vs.)
)
 HAWAII ELECTRIC LIGHT COMPANY, INC.)
)
 Respondent.)
 _____)

DOCKET NO. 2009-0052

PREHEARING ORDER

FILED
2009 SEP 10 P 12:01
PUBLIC UTILITIES
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

WILLIAM K. BAUER)
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 Complainant,) Docket No. 2009-0052
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 vs.)
)
 HAWAII ELECTRIC LIGHT COMPANY, INC.)
)
 Respondent.)
 _____)

PREHEARING ORDER

By this Prehearing Order, the commission sets the issues, schedule of proceedings, and procedures that shall control the course of this docket.

I.

Background

On March 4, 2009, WILLIAM K. BAUER ("Complainant") filed a formal complaint against HAWAII ELECTRIC LIGHT COMPANY, INC. ("Respondent"). Complainant alleges that his clothes washer was damaged by a power interruption or voltage disturbance on November 14, 2008, at approximately 8:30 a.m.¹

By Order Directing Respondent to file an Answer to Complainant's Formal Complaint, filed on March 20, 2009, in this docket, the commission ordered Respondent to file an answer to the formal complaint within twenty (20) days after the date of service of the order. On the same date, the commission served

¹See Complaint at 1.

two copies of the complaint on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding.²

On April 13, 2009, Respondent timely filed its answer to the complaint. The Consumer Advocate subsequently filed its Statement of Position on July 20, 2009, stating that it would not be participating in this proceeding due to limited resources.

II.

Issue, Schedule of Proceedings, Procedures

A.

Issue

Whether Complainant is entitled to reimbursement from Respondent in the amount of \$663.54 for damage to a clothes washer.

B.

Schedule of Proceedings

The Parties shall adhere to the following schedule:

1.	Deadline to submit Information Requests to any of the Parties	Monday, September 14, 2009
2.	Deadline to respond to Information Requests	Monday, October 5, 2009
3.	Opening Briefs	Monday, November 9, 2009

²See Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") §§ 6-61-62 and 6-61-67(e). Complainant and Respondent are collectively referred to as the "Parties."

4.	Reply Briefs	Wednesday, November 18, 2009
5.	Witness Lists	Wednesday, November 25, 2009
6.	Evidentiary Hearing (to be conducted by a Hearings Officer)	Thursday, December 3, 2009
7.	Findings of Fact, Conclusions of Law and Recommended Decision ("Recommended Decision")	To be issued by the Hearings Officer
8.	Exceptions to the Hearings Officer's Recommended Decision ("Exceptions") (optional)	Due 10 working days from the filed date of the Recommended Decision
9.	Briefs opposing the Exceptions (optional)	Due 10 working days from the filed date of the Exceptions
10.	Final Decision and Order	To be issued by the commission pending any post-hearing submissions

C.

Requests for Information

A party to this proceeding may submit information requests to another party within the time schedule specified in this Prehearing Order. After the scheduled date for submitting information requests has passed, no additional requests for information shall be allowed except upon stipulation by the parties or approval of the commission upon good cause shown.

In responding to an information request, a party will not be required to provide data which is already on file with the commission or otherwise identified as a matter of public record.

A party will not be required to recalculate, trend, reclassify or otherwise rework data contained in its files, unless otherwise ordered by the commission.

A party may object to responding to an information request that it deems irrelevant, immaterial, unduly burdensome, onerous, or repetitious, or which calls for the production of information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential information, and withholds production of all or a portion of such confidential information, the party will: (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 or is providing the confidential information pursuant to a protective order.

Parties seeking production of documents notwithstanding a party's claim of confidentiality may file a motion to compel production with the commission.

Responses to the information requests of a party may be introduced into evidence subject to objections as to relevancy or materiality of the proffered material or whether the material or any portion thereof is proprietary or privileged.

The parties are encouraged to resolve informally any question or concern as to the scope or meaning of an information request or with respect to the availability of information.

Responses to information requests which would require the reproduction of voluminous documents or materials may be made available for reasonable inspection and copying at a designated location. 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 all parties and the commission.

The responses of each party will adhere to a uniform system of numbering. For example, the first information request submitted by Complainant shall be referred to and designated as "Complainant's-IR-1," and a response to this information request shall be referred to and designated as "Response to Complainant's-IR-1."

D.

Order of Procedure

The examination of witnesses will, unless otherwise directed by the hearings officer, be limited to the manner and order as follows:

1. Complainant's Witnesses:
 - a. Direct examination/testimony by Complainant or Complainant's counsel;
 - b. Cross-examination by Respondent or Respondent's counsel;

- c. Redirect/rebuttal by Complainant or Complainant's counsel.

2. Respondent's Witnesses:

- a. Direct examination by Respondent or Respondent's counsel;
- b. Cross-examination by Complainant or Complainant's counsel;
- c. Redirect examination by Respondent or Respondent's counsel.

Cross-examination of any witness will be limited to one attorney or representative for a party. The parties will avoid duplicate or repetitious cross-examination.

Recross-examination of a witness will be limited to the material covered in redirect examination unless otherwise permitted by the hearings officer.

E.

Admission of Fact and Matters of Public Record

Documents identified as matters of public record may be offered as evidence to avoid unnecessary proof and to facilitate these proceedings. The following documents may be identified as matters of a public record: (1) public financial reports and previously submitted written testimonies and exhibits filed with the commission; (2) published decisions issued by state and federal agencies; (3) published scientific or economic statistical data, material, and textbooks, and technical or industrial journals; and (4) specified parts of the official record of previous proceedings of the commission.

The matter intended to be offered as evidence must be clearly identified by reference to the date and place of publication and the file or docket number. The identified document must be available for inspection by the parties. Parties will have the right to explain, qualify, or conduct cross-examination with respect to the identified material. Pursuant to HAR § 6-61-44, the hearings officer will rule on whether specified and identified material can be admitted into evidence when a party proffers such material for admission as evidence. The hearings officer's rulings may be reviewed by the commission in determining matters on their merit.

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

F.

Copies of Documents

1. Exhibits:

Commission	Original + 2 copies
Consumer Advocate	1 copy
Complainant	1 copy
Respondent	1 copy

2. Information Requests and Responses:

Commission	Original + 2 copies
Consumer Advocate	1 copy
Complainant	1 copy
Respondent	1 copy

All information requests and responses, notices of motions, motions, memoranda, other requests for commission action, briefs, and the like, shall comply with the formatting

requirements prescribed pursuant to HAR § 6-61-16 and shall be filed at the office of the commission in Honolulu within the time limit prescribed in HAR § 6-61-15. Copies of all filings should be sent to the other parties by hand delivery or United States mail (first class, postage prepaid).

G.

Communications

HAR § 6-61-29 concerning ex parte communications is applicable to any communications between a party and the commission. However, the parties may communicate with commission counsel through their own counsel or designated party representative only as to matters of process and procedure.

Communications between the parties should either be through counsel or through designated party representatives. All documents filed in this proceeding shall be served on the opposing party and counsel, as provided in Section F, "Copies of Documents," above.

III.


Orders

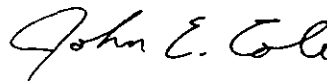
THE COMMISSION ORDERS:


This Prehearing Order is adopted herein, and shall control the course of this proceeding, unless modified by the parties in writing and approved by the commission, or upon the commission's own motion.

DONE at Honolulu, Hawaii SEP 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:


Bonita Y.M. Chang
Commission Counsel

2009-0052.laa

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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