

DIVISION OF CONSUMER ADVOCACY  
Department of Commerce and  
Consumer Affairs  
335 Merchant Street, Room 326  
Honolulu, Hawaii 96813  
Telephone: (808) 586-2800

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of	)	
	)	
HAWAIIAN ELECTRIC COMPANY, INC.;	)	Docket No. 2024-0121
HAWAI'I ELECTRIC LIGHT COMPANY, INC.;	)	
MAUI ELECTRIC COMPANY, LIMITED	)	
Db a HAWAIIAN ELECTRIC	)	
	)	
For Approval of Stipulated Comprehensive	)	
Double Pole Removal Plan.	)	

**DIVISION OF CONSUMER ADVOCACY'S**  
**STATEMENT OF POSITION**

Pursuant to the Hawaii Public Utilities Commission's ("Commission") Order No. 40794 Establishing a Statement of Issues and Setting Forth a Procedural Schedule, issued on May 23, 2024 ("Order No. 40794"), the Division of Consumer Advocacy ("Consumer Advocate") provides its Statement of Position.

Based on its review, the Consumer Advocate recommends that the Stipulated Comprehensive Double Pole Removal Plan (the "Stipulated Plan"), attached as Exhibit B to the application filed by Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), and Maui Electric Company, Limited ("MECO") (collectively

hereafter referred to as the “Company” or “Hawaiian Electric”), on April 30, 2024,<sup>1</sup> should be approved.<sup>2</sup> The basis for the Consumer Advocate’s recommendation is discussed below.

**I. BACKGROUND.**

**A. LEGISLATIVE CONCERNS AND RESOLUTIONS.**

During the 2023 Legislative Session, the Hawaii State Legislature (“Legislature”) adopted House Concurrent Resolution No. 41, Senate Draft 1 (“HCR 41”) and House

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<sup>1</sup> See Hawaiian Electric Application, Verification, Exhibits “A” – “E”, and Certificate of Service, filed on April 30, 2024 (“Application”).

<sup>2</sup> As discussed on pages 4-5 of the Application, Stakeholders in this proceeding are comprised of:

. . . both joint pole owners and telecommunications and cable attachers, some of whom are not regulated by the Commission. The government entities—the City & County of Honolulu and the State of Hawai’i, Department of Transportation—both remain minority joint pole owners and are in a co-ownership relationship with Hawaiian Electric. The remainder of the Stakeholders are telecommunications and cable providers that attach to Hawaiian Electric’s distribution poles via the mechanisms set forth in the Federal Pole Attachment Act, the Federal Communications Commission’s regulations, and via their respective pole licensing agreements with Hawaiian Electric.

The Company identifies the participating stakeholders as: (1) the City and County of Honolulu (“C&C”), (2) the State of Hawaii, Department of Transportation (“DOT”), (3) Hawaiian Telcom, Inc. (“HT”), (4) Spectrum Oceanic, LLC (“Charter”), (5) Cellco Partnership dba Verizon Wireless, (6) AT&T Corp., and (7) New Cingular Wireless PCS, LLC (collectively, hereafter referred to as “Stakeholders”). See Application at 5. In turn, the Stakeholders and the Company are collectively referred to as the “Parties”. See Application at 2, footnote 3.

The Company also notes that:

The County of Maui is not a joint pole owner and does not own any equipment attached to Hawaiian Electric poles, so was not a stakeholder in this exercise. The County of Hawai’i (“COH”) is a joint pole owner, but Hawaiian Electric has a long-standing agreement with the COH to transfer all of the COH’s streetlights when it places a new pole, so it was not a necessary participant in these discussions.  
See Application at 5, footnote 5.

Resolution No. 45 (“HR 45”), both expressing concerns regarding double poles. The Legislature stated, among other things, the following:

WHEREAS, when a new utility pole is installed adjacent to an existing utility pole for the purpose of transferring electric, telephone, cable, or other wires from one pole to another, the original pole is often left in place, resulting in what is referred to as double poles; and

WHEREAS, there are thousands of derelict utility poles, double poles, and utility lines abandoned across Hawaii neighborhoods; and

WHEREAS, the derelict utility and communication lines, abandoned utility poles, and redundant double poles should be removed in a timely manner due to their growing threat to public safety; and

WHEREAS, the removal of unnecessary and unsightly derelict lines and poles will eliminate potential public hazards, organize communication and utility pole lines, and favorably influence the surrounding community; now, therefore . . . .<sup>3</sup>

HCR 41 urged the Commission to open a new proceeding relating to the removal of abandoned or double utility poles, lines, and equipment,<sup>4</sup> while HR 45 urged the Commission to reevaluate and adopt administrative rules relating to the removal of abandoned or double utility poles, lines, and equipment.<sup>5</sup> In addition, HCR 41 requested that the Commission submit a status report regarding the new proceeding to the Legislature no later than 20 days prior to the convening of the 2024 Session of the Hawaii State Legislature.<sup>6</sup>

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<sup>3</sup> HCR 41 at 1-2. See also HR 45 at 1-2.

<sup>4</sup> See HCR 41 at 2.

<sup>5</sup> See HR 45 at 2.

<sup>6</sup> See HCR 41 at 2.

In December 2023, in response to the resolutions, the Commission issued its “Report to the 2024 Legislature Pursuant to House Concurrent Resolution 41 / House Resolution 45 (2023),” (“PUC Report”).<sup>7</sup> In the PUC Report, the Commission: (1) describes the procedures it undertook to date to address the Legislature’s double pole concerns including engagements with Hawaiian Electric, (2) outlines the current status and challenges regarding the removal of double poles, and (3) set forth forward-looking plans to address double pole issues. Among other things, the Commission states that, “Hawaiian Electric acknowledges that it remains behind in achieving its commitment of clearing the backlog of double poles by 2028” and that there are currently over 10,780 backlog double poles outstanding.<sup>8</sup> The Commission also relayed the following:

Hawaiian Electric states that it is committed to addressing the backlog of double pole removals within the next 5 years, fulfilling its agreement as approved by Order No. 357[68] in Docket No. 2018-0075. Hawaiian Electric also states that it is not taking a “business as usual” approach in its effort to meet its commitment.<sup>9</sup>

The PUC Report states that Hawaiian Electric pledges to: (1) continue to meet with Stakeholders to develop a long term plan; (2) accelerate total double pole removals; (3) evaluate opportunities to lower and maintain the contractor unit costs; (4) work with Stakeholders to improve the process of transferring pole attachments; and (5) improve tracking of each step in the process and publicly communicate progress.<sup>10</sup> Furthermore, the Commission conveyed the following to the Legislature:

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<sup>7</sup> A copy of the PUC Report regarding double poles can be accessed through this link <https://puc.hawaii.gov/reports/legislature/>. See also Application, Exhibit A.

<sup>8</sup> PUC Report at 13; Application, Exhibit A at 17.

<sup>9</sup> PUC Report at 10; Application, Exhibit A at 14.

<sup>10</sup> See PUC Report at 10-11; Application, Exhibit A at 14-15.

The Commission, together with Hawaiian Electric, will convene additional monthly status meetings with Stakeholders in the coming months to ensure alignment on a comprehensive plan that addresses the removal of the backlog of double poles (from the 2018 audit) and the timely removal of post-audit double poles newly created since 2018. Through regular discussions with Hawaiian Electric, the Commission is learning which solutions (an updated tracking system, incentive or penalty program, contractor training program, addendums to all agreements for pole attachments, stronger contract enforcement, increased contractor capacity, etc.) are best suited for accelerating removal of Hawaiian Electric's double poles. The Commission will require the Stakeholders to submit their stipulated comprehensive plan in a docket by the end of April 2024, after which the Commission intends to review and render a decision on this comprehensive plan by end of July 2024.<sup>11</sup>

## **B. PROCEDURAL BACKGROUND.**

Consistent with what was conveyed to the Legislature, numerous status and subcommittee meetings between the Parties, the Commission, and the Consumer Advocate, as applicable, were held from early February through April 2024, with the last subcommittee meeting held on April 25, 2024.<sup>12</sup>

On April 30, 2024, the Company filed its Application requesting that the Commission:

1. Approve the Stipulated Plan (attached as Exhibit B); and
2. Grant the Company such other and further relief as may be just and equitable under the circumstances.

On May 20, 2024, the Consumer Advocate filed its Preliminary Statement of Position.

On May 23, 2024, the Commission issued Order No. 40794.

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<sup>11</sup> PUC Report at ii (Executive Summary); Application, Exhibit A at 3.

<sup>12</sup> See Application at 9.

On May 31, 2024, the Consumer Advocate and the Commission separately issued information requests (“IRs”) on the Company. The Company responded to both issued IRs on June 14, 2024.

On June 28, 2024, the Commission issued additional IRs on the Company, for which responses were filed on July 15, 2024.

## **II. DISCUSSION.**

In reviewing the Application, consistent with Order No. 40794, the Consumer Advocate considered the following issues:

1. Whether the Stipulated Plan should be approved by the Commission as reasonable and achievable; and
2. What additional factors or considerations, if any, must be addressed and/or resolved to further allow [the Company] to succeed in implementing the Stipulated Plan.

### **A. WHETHER THE STIPULATED PLAN SHOULD BE APPROVED BY THE COMMISSION AS REASONABLE AND ACHIEVABLE.**

In its Application, the Company identifies that it owns an estimated 168,206 utility poles throughout islands, and that its poles support the distribution of electricity and provides the infrastructure for service providers, including telecommunications providers, to deliver internet, cable television, and street and traffic light services.<sup>13</sup> The Company explains that a “double pole” occurs when it installs a new replacement utility pole next to

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<sup>13</sup> See Application at 2.

an old pole but cannot immediately remove the old pole since telecommunications lines and other equipment and/or streetlights are attached to the old pole and have not been transferred, resulting in two poles remaining in the same location (i.e., a double pole). This situation, according to the Company, remains unchanged until all attachments owned by Stakeholders are transferred to the new pole and the old pole is removed.<sup>14</sup>

As part of Docket No. 2018-0075, which involved the transfer of HT's equity ownership interest in the joint poles it owned with the Company, HT and Hawaiian Electric jointly committed to remove all double poles in the field at that time within ten years (i.e., in 2028).<sup>15</sup> At the outset, while there was some disagreement on the total number of double poles at issue and how many required standard transfers (which under the agreement between HT and Hawaiian Electric, Hawaiian Electric would be responsible to perform) and how many required non-standard transfers (which remained the responsibility of HT to perform),<sup>16</sup> the Company committed to perform a minimum of 1,000 standard transfers and double pole removals per year, while HT committed to perform 50 non-standard transfers and double pole removals per year.<sup>17</sup> In so doing, the Company and HT expressly represented to the Commission that "[t]he double pole backlog will be brought to a net zero within ten years."<sup>18</sup> Based on these and other purported benefits of the

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<sup>14</sup> See Application, at 6.

<sup>15</sup> See Application of Hawaiian Telcom, Inc. and Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited; Verification; Exhibits "A" – "F"; and Certificate of Service, filed on April 4, 2018 ("Joint Pole Transfer Application"), at 23.

<sup>16</sup> Given the differing opinions on the number of double poles, a field audit was completed by a third-party contractor in 2018 and filed in Docket No. 2018-0075. See Application at 7. See also Joint Pole Transfer Application at 23.

<sup>17</sup> See Joint Pole Transfer Application at 23.

<sup>18</sup> Joint Pole Transfer Application at 23.

transfer, the Commission approved the Joint Pole Transfer Application when it issued Decision and Order No. 35768 on October 16, 2018 (“D&O No. 35768”).

With respect to the commitments made in Docket No. 2018-0075 regarding the removal of “backlog” double poles (i.e., when applicable, “2018 double pole backlog”), the Company conveys in the Application that:

From 2018 to 2023, Hawaiian Electric and HT were removing double poles but were behind in their progress. In early 2023, it was believed that 6,900 standard transfers and 2,900 non-standard transfers remained to be removed and neither party seemed to be on track.<sup>19</sup>

The Company asserts that this commitment does not include removal of double poles created after the 2018 audit, which the Company labels as “preventive” double poles.<sup>20</sup>

The Company explains that preventive double poles are double poles created on a going forward and continual basis when existing poles are replaced due to planned or unplanned maintenance of utility poles and communication attachments are not transferred over, and contribute to the problem with double poles.<sup>21</sup>

During the latter part of 2023, in response to questions issued by the Commission, the Company stated that as of November 2, 2023, there were 10,782 backlog double poles in its service territories throughout the islands (separately, 6,781 for HECO; 1,477 for MECO; and 2,524 for HELCO).<sup>22</sup> The Company also stated that of the 9,420 double

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<sup>19</sup> Application at 8.

<sup>20</sup> See Application at 7.

<sup>21</sup> See Application at 7.

<sup>22</sup> See Application, Exhibit A at 28 (Response to Question-03, line no. 6). With respect to its response to Question-03, the Company clarified, that “[f]or the above Table, rows 1 through 9, the Company interpreted the count as the number of backlog double poles the Company committed to removing in Docket 2018-0075 Application. All counts are as of November 2, 2023.” Application, Exhibit A at 29.



poles at the start of the 10-year period based on its field audit filed in Docket No. 2018-0075 (i.e., the 2018 double pole backlog), only 2,840 double poles in the aggregate were removed within the approximate five year period since D&O No. 35768 was issued in October 2018.<sup>23</sup> Furthermore, the Company informed the Commission that as of November 2, 2023, an estimated 5,585 preventive double poles (separately, 4,215 for HECO; 155 for MECO, and 1,215 for HELCO) were created since D&O No. 35768 was issued in Docket No. 2018-0075, and again clarified that these preventive double poles are not part of the 2018 double pole backlog.<sup>24</sup> In sum, while preventive double poles are continually being created each year, the Company and HT fell behind in its commitments to remove the 2018 double pole backlog.

In support of the Application, the Company states that the Stipulated Plan was developed through meetings with the Commission, the Consumer Advocate, Hawaiian Electric, the Stakeholders, and certain union representatives, and addresses the administration and removal of existing and new double poles in Hawaii.<sup>25</sup> According to the Company, “[t]he stipulated improvements to the double pole process will promote clarity in day-to-day transfer and removal activities, better communication among the Stakeholders and Hawaiian Electric, efficiency gains by sharing contractors out in the field, and more accountability and transparent reporting on a going forward basis.”<sup>26</sup>

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<sup>23</sup> See Application, Exhibit A at 28 (Response to Question-03, line nos. 8 and 9).

<sup>24</sup> See Application, Exhibit A at 29 (Response to Question-03, line no. 10).

<sup>25</sup> See Application at 3.

<sup>26</sup> Application at 3.

## 1. Provisions of the Stipulated Plan.

In the Stipulated Plan, the Company, HT and C&C expressly “. . . commit to meeting the schedules proposed in their respective short-term and long-term plans that will eliminate the original backlog of pre-2018 double poles and prevent sizable backlog of double poles going forward.”<sup>27</sup> The stipulated process changes (i.e., the enumerated provisions) of the Stipulated Plan are intended to enable applicable Parties to implement their removal plans as detailed in Exhibits C, D, and E of the Application.

The Parties stipulated to sixteen specific provisions or “process changes” to address the administration and removal of existing and future double poles. The following is a description of each stipulated provision:<sup>28</sup>

- Stipulation 1 – The Parties agree to the concept of utilizing Alden ONE (an online portal and database software) to “. . . manage communications matters related to double poles: 1) scheduling of transfers, 2) completion notices, 3) customer complaints, 4) joint permit progress, 5) timeline tracking, 6) dashboard-style reporting, and any other communication Hawaiian Electric and Stakeholders discover and agree to as necessary.”<sup>29</sup>
- Stipulation 2 – Applicable Stakeholders agree to the concept of using Alden ONE to optimize the Notice to Intent and Erection Notice process.
- Stipulation 3 – Applicable Stakeholders agree to the concept of utilizing Alden ONE to timely notify the Company within 10 days of transferring its equipment from the old to the new pole so that the bare pole can be removed.
- Stipulation 4 – The Company, HT, and Charter agree to utilize Alden ONE to input any action items that may impact the double pole schedule or plans that result from their standing monthly meetings, and use these meetings to track status of short-term and long-term pole transfer plans and work to keep committed timelines.

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<sup>27</sup> Application, Exhibit B at 2.

<sup>28</sup> See Application, Exhibit B at 3-17, for more detail on the stipulated provisions.

<sup>29</sup> Application, Exhibit B at 3.

- Stipulation 5 – Applicable Stakeholders consent to exchange their respective list of approved contractors with the Company, granting permission for these qualified contractors to relocate Stakeholders’ equipment with proper notification and approval, and to be invoiced accordingly.
- Stipulation 6 – In the spirit of One Touch,<sup>30</sup> the Parties agree to continue discussions regarding the best way to utilize approved contractors, crews, and respective unions as feasible, and recognize that not all Stakeholders may be able to participate nor that all circumstances allow for it.
- Stipulation 7 – HT and Charter have agreed to: (1) install cross arms required for non-standard transfers where the existing pole has cross-arms, (2) specific procedures and reimbursements regarding non-standard transfers; and (3) continue to explore opportunities to increase efficiencies and reduce costs.
- Stipulation 8 – The Company, HT, and Charter will attempt to file one joint permit, where possible, to eliminate extra burdens on C&C to review multiple riser requests regarding the same pole, and will also explore the feasibility of similar coordination for riser poles on Maui, Hawaii Island, and with the DOT.
- Stipulation 9 – The Company and applicable Stakeholders agree to the concept of using Alden ONE to self-confirm pre-clearances instead of adding the step of requiring a C&C permit runner,<sup>31</sup> and the same agree to explore the feasibility of using Alden ONE for similar plan reviews for Maui, Hawaii Island, and DOT projects.
- Stipulation 10 – Applicable Stakeholders agree to tag their telecommunications and cable wireline equipment with their designated color for all new double pole installations.

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<sup>30</sup> “One Touch” *concepts*, with respect to double poles and for the matters of this docket, is the practice of sharing crews and contractors, when applicable and feasible, to speed up the removal of double poles. See Application, Exhibit B at 6-7. Accordingly to the Company, the “One Touch” *concepts* advanced in the Stipulated Plan, are “loosely based” on the federal regulations established by the Federal Communications Commission (“FCC”) regarding the FCC’s One Touch Make Ready program for simple make ready work to accommodate new pole attachments. See Response to CA-IR-5 at 2-3.

<sup>31</sup> The C&C permit runners currently need to go to the various agencies including, among others, the Department of Planning and Permitting, the Department of Transportation Services, and the Department of Design and Construction and obtain wet signatures to verify underground conditions, availability, and/or open space, among other things, which is time-consuming and delays completion of transfers involving multiple risers. See Application, Exhibit B at 12.

- Stipulation 11 – The Company and applicable Stakeholders agree to include tagging requirements into their agreements with approved contractors (if not already implemented).
- Stipulation 12 – As specifically related to double poles, the Company and the Stakeholders agree to make every effort to timely respond to reasonable vegetation management requests necessary to assist in double pole transfers.
- Stipulation 13 – “C&C recognizes excessive vegetation growth may impact the integrity of the poles that support its streetlights and traffic signal cables and has agreed to enhance its proactive vegetation management program by trimming back vegetation a reasonable distance beyond its allocated space on the pole with the tools its crews have on hand.”<sup>32</sup>
- Stipulation 14 – The Parties agree to continue discussing vegetation issues as it relates to double poles.
- Stipulation 15 – Stakeholders agree to not knowingly transfer abandoned lines in the double pole transfer process, to the extent possible, and also agree to remove any unused or abandoned equipment within a reasonable time upon discovery.
- Stipulation 16 – “The Parties agree that their collaborative efforts and agreements made herein will mitigate the conditions that lead to delays in pole transfers and that they will be able to self-police to ensure timely double pole transfers and removals.”<sup>33</sup> In addition, aside from certain specific clarifications,<sup>34</sup> the Parties agree to discuss the need for penalties in the future, if the new processes do not result in more streamlined removals of double poles.

## **2. The Stipulated Plan Should be Approved by the Commission.**

At the outset, the Consumer Advocate views the Stipulated Plan as a positive step forward with respect to the administration and removal of the 2018 double pole backlog and preventive double poles going forward. The agreed-upon provisions set forth in the

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<sup>32</sup> See Application, Exhibit B at 15 (footnote omitted).

<sup>33</sup> Application, Exhibit B at 17.

<sup>34</sup> See Application, Exhibit B at 17, footnotes 8, 9, and 10.

Stipulated Plan provides for measures that will facilitate the commitments made at the onset of the plan which is to eliminate the 2018 double pole backlog and to prevent the creation of sizable backlog of future preventive double poles.<sup>35</sup> As mentioned above, the Company, HT, and C&C submitted individual filings (i.e., Application Exhibit C, Exhibit D, and Exhibit E, respectively) supplementing the Stipulated Plan. Among other things, in their filings the Company and HT re-confirm their commitments to remove the 2018 double pole backlog and expressly sets forth specific short- and long-term plans to carry out their obligations.

During the short-term, for 2024 HT is aiming to remove a total of 450 backlog of non-standard double pole transfers (specifically, 50 in quarter (“Q”) 1, 75 in Q2, 150 in Q3, and 175 in Q4).<sup>36</sup> In turn,<sup>37</sup> the Company plans to remove approximately 1,300 backlog HT standard transfers (specifically, 270 in Q1, 236 in Q2, 395 in Q3, and 395 in Q4).<sup>38</sup> With respect to its plans for the long-term (2025-2028), the Company offers the following:

At the end of 2024, when Hawaiian Electric removes the targeted 1,296 backlog HT standard transfer double poles . . . Hawaiian Electric will have removed close to 4,300 backlog HT standard transfer double poles since it started the backlog transfers and removals in 2019. Hawaiian Electric will then have an estimated 5,148 backlog HT standard transfer double poles to remove for years 2025 through 2028. To achieve this, Hawaiian Electric

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<sup>35</sup> See Application, Exhibit B at 2.

<sup>36</sup> See Application, Exhibit D at 1.

<sup>37</sup> The C&C commitments are set forth in Exhibit E of the Application. In short, the C&C commits to addressing the 477 priority poles that Hawaiian Electric has identified by end of the 2024 calendar year, by transferring street light and traffic signal cables from old joint poles to the new joint poles. In addition, the C&C plans to address over 3,800 “paper” notices by the end of 2024 to administratively address un-cleared matters regarding double poles. See Application, Exhibit E at 2-3.

<sup>38</sup> See Application, Exhibit C at 2.

is targeting to remove 1,305 backlog HT standard transfer double poles in years 2025 through 2027, decreasing to 1,269 backlog HT standard transfer double poles in year 2028.<sup>39</sup>

HT's plan in the long-term (years 2025-2028) is "[t]o annually remove 1000 - 1200 double poles to address both the existing backlog and new cases."<sup>40</sup> HT identifies six key steps for its long term strategy, which are as follows:

1. Assessment of non-standard transfer requirements and development of specialized engineering teams to look at riser pole options.
2. Engagement in continuous training for teams on new technologies and methods for efficient transfers.
3. Ensure construction resources available on all islands based on scheduled removals.
4. Establishment of monitoring to tackle the highest priority cases first, considering both safety and community impact.
5. Assessment teams to optimize resources working in pole transfer areas that can be leveraged to complete pole transfers.
6. Reduce permit requirements or permit processing time by working with local government and other utilities.<sup>41</sup>

In doing so, HT emphasizes the implementation of monitoring and reporting procedures and states that "[b]y employing a structured approach focused on prioritization, efficiency, and collaboration [HT] can effectively reduce its backlog of double pole transfers through self-regulation and commitment."<sup>42</sup>

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<sup>39</sup> Application, Exhibit C at 2.

<sup>40</sup> Application, Exhibit D at 1.

<sup>41</sup> Application, Exhibit D at 2.

<sup>42</sup> Application, Exhibit D at 2.

The Stipulated Plan which includes the commitments made by the Company, HT, and C&C, in their respective filings, represents a coordinated effort of the Parties to address the 2018 double pole backlog and growth of preventive/new double poles. In particular, the stipulations regarding the use of Alden ONE to manage communication regarding double poles (i.e., scheduling transfers, completion notices, customer complaints, joint permit process, tracking and dashboard style reporting) amongst all the Parties will assist in their efforts to address double pole issues. The agreements to use Alden ONE for notification and various procedures related to double poles is significant since there currently is no single database to track double pole equipment and transfers and, and presently “. . . notices for pole replacements, equipment transfers, and customer complaints are provided manually via email, phone, and/or by letter.”<sup>43</sup> According to the Parties “[t]his disparate and manual exchange and input of information has led to incomplete records and inefficiencies in communications among some Parties and hindered coordinated efforts between them.”<sup>44</sup> The agreements to utilize Alden ONE, when applicable, should alleviate many of these communication inefficiencies.

Also significant is the agreement to apply One Touch *concepts* to gain efficiencies through shared resources. For instance, the agreement by Stakeholders to exchange respective list of approved contractors with the Company and grant permission for these qualified contractors to relocate equipment simultaneously, when possible, with proper notification, should provide additional efficiencies especially since it is recognized that qualified contractors on each island to conduct equipment transfers are limited. Sharing

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<sup>43</sup> Application, Exhibit B at 2.

<sup>44</sup> Application, Exhibit B at 2.

crews and contractors, when applicable and feasible, to speed up the removal of double poles, and the Parties agreeing to further discuss how to best to coordinate efforts in the spirit of One Touch is constructive and promising, and should help advance equipment transfers and removal of double poles in the future.

Furthermore, the Company in its response to PUC-HECO-IR-02 provides a detailed explanation of how each of the process changes agreed to by the Parties would improve or benefit the removal of double poles and in turn help reduce costs associated with double pole removals. Accordingly to the Company, Stipulations 5 through 9 (regarding, in short, shared contractors, utilization of unions, non-standard transfer coordination, joint permits, and joint trenching verification process, respectively), should help reduce costs more than others, but acknowledges that additional work will be needed by the Parties to provide a more detailed estimate of cost savings.<sup>45</sup> Nonetheless, these process changes or stipulations should benefit the removal of both the 2018 double pole backlog and the new/preventive double poles since the process for removing them is the same.

With respect to cost savings, the Consumer Advocate is particularly encouraged by the results of the Company's May 8, 2024, request for proposals ("RFP") issued to various qualified contractors. The RFP (often referred to as the "revised RFP") was issued by the Company to attempt to lower the cost of per-pole HT standard transfers and double pole removals by providing bulk removal requirements. The Company anticipates that by increasing the quantity of poles sent to contractors and grouping them geographically for efficiency, contractors will be able to provide lower bulk pricing,

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<sup>45</sup> See Response to PUC-HECO-IR-02 at 2-3.



decreasing the overall per-pole cost of removals.<sup>46</sup> “This should reduce the costs for long-term projections and will also increase the short-term removals for the remainder of 2024.”<sup>47</sup>

According to the Company, based on data and feedback from contractors, by including guaranteed set amounts of poles per year in the revised RFP, the potential cost savings is 30%, provided that the Company is able to issue awards and successfully negotiate contracts under the new requirements.<sup>48</sup> “The Company is expected to award and begin double pole work with the selected contractor(s) [under the revised RFP] by July 1, 2024.”<sup>49</sup> Given that the bids received for the revised RFP indicates “significantly” lower pricing for transfer work and removal of double poles, the Company states that it is no longer seeking the additional \$500,000 to cover the removal of double poles as was initially requested in the Application.<sup>50</sup>

In sum, the Company’s costs related to the standard transfers are expected to decrease significantly going forward, the Stipulated Plan provides a strategy for more efficient administration and communication between the Parties concerning double poles, and additional efficiencies and cost savings should result from the various process

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<sup>46</sup> See Application, Exhibit C at 4-5.

<sup>47</sup> Application, Exhibit C at 5.

<sup>48</sup> See Response to CA-IR-7 at 2.

<sup>49</sup> Response to CA-IR-7 at 1.

<sup>50</sup> See Response to PUC-HECO-IR-01 at 4. However, the Company states that it “. . . still requests this additional funding in order to expediate the removal of backlog double pole and to offset unknown, incidental costs related to standard transfers for double pole removals.” Response to PUC-HECO-IR-01 at 4 (emphasis added).

changes outlined in the Stipulated Plan.<sup>51</sup> Thus, the Consumer Advocate believes that the Stipulated Plan should result in the reduction of double poles (both backlog and preventive) going forward throughout the Company's service territories.

Nonetheless, we also believe that verification through monitoring is key to ensure that the stipulated process changes are addressing double pole removals, that the Parties are moving forward with further discussions resulting in increased efficiencies (such as through implementing additional One Touch *concepts* and better management of vegetation on poles), and that the notion that they would "self-police" to ensure timely double pole transfers and removals as advanced by the Parties in the Stipulated Plan<sup>52</sup> are actually occurring, so that further direct intervention by the Commission is unnecessary. Details with respect to monitoring and other related proposals and recommendations regarding double poles are set forth in Section B below.

Based on the foregoing, the Consumer Advocate concludes that the Stipulated Plan is reasonable and achievable and, thus, recommends that the Stipulated Plan should be approved.

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<sup>51</sup> See Response to PUC-HECO-IR-02 at 1-3.

<sup>52</sup> See Application, Exhibit B at 17.

**B. WHAT ADDITIONAL FACTORS OR CONSIDERATIONS, IF ANY, MUST BE ADDRESSED AND/OR RESOLVED TO FURTHER ALLOW [THE COMPANY] TO SUCCEED IN IMPLEMENTING THE STIPULATED PLAN.**

**1. Monitoring Implementation Through Reports.**

While the Consumer Advocate accepts the Parties' commitment in Stipulation 16, that the collaborative efforts and agreements set forth in the Stipulated Plan “. . . will mitigate the conditions that lead to delays in pole transfers and that they will be able to self-police to ensure timely double pole transfers and removals”<sup>53</sup> we also believe that verification through monitoring and reporting is important, at this time. Thus, the Consumer Advocate recommends that the Commission require the Company to provide reports on a semi-annual basis (or every six months) regarding the following:

- Current status of the 2018 double pole backlog, including the number of double pole removals for the period (by service territory);
- Current status of preventive double poles in the field, including the number of double pole removals for the period (by service territory);
- Updates regarding implementation of the Stipulated Plan (by process change, as applicable);
- Any challenges regarding the implementation of the Stipulated Plan and resolutions of them, if any;
- Additional process changes that the Parties are working to develop; and
- Any other matters of concern related to double poles.

Semi-annual reports on double poles (i.e., the “Double Pole Report”) could be filed in this docket and continue until at least the end of 2028, or as ordered by the Commission, whichever is later.

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<sup>53</sup> Application, Exhibit B at 17.

## 2. Preventive Double Pole Goals Are Needed.

The Consumer Advocate is mindful that while there is an express commitment to remove all 2018 backlog double poles by the end of 2028,<sup>54</sup> the commitment with respect to preventive double poles is not as precise. The Parties' commitment with respect to new or preventive double poles appears to be to ". . . prevent sizable backlog of double poles going forward."<sup>55</sup> Given the nature of preventive double poles, which are created on an on-going regular basis through the course of normal business (e.g., due to planned/unplanned maintenance), the Consumer Advocate understands and accepts the Company's assertion that ". . . there is no date at which there will ever be zero double poles in the field,"<sup>56</sup> as there will be on-going work for transfers, reconductoring, etc., at any point in time. Nonetheless, the Consumer Advocate believe that goals for reducing the level of preventive double poles in the field would be beneficial.

The docket record regarding preventive double poles appears in the Company's response to Commission Question-03 filed on November 30, 2023, wherein the Company reports on the number of new double poles created each year since on or about October 16, 2018, when the Commission issued Order No. 35768, in Docket No. 2018-0075. Based on the information provided, in general, roughly 1,086 new preventive double poles appear to be created each year throughout the Company's

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<sup>54</sup> See Response to PUC-HECO-IR-01 at 5. Also see Application, Exhibit B at 2.

<sup>55</sup> Application, Exhibit B at 2.

<sup>56</sup> Response to PUC-HECO-IR-01 at 5.

service territories.<sup>57</sup> Through implementation of the Stipulated Plan the Consumer Advocate expects a downward trend regarding the growth of new double poles each year, and is hopeful that the new backlog of preventative double poles decreases exponentially. At this juncture, rather than imposing an arbitrary target or goal, the Consumer Advocate believes that the Parties should develop targets regarding preventative double poles in the field after implementation of the Stipulated Plan for at least a year, and under the new conditions and processes, such as the Company's new contracts for equipment transfers and double pole removals negotiated and awarded under the Company's revised RFP. These targets regarding the preventative double poles should be submitted in the Double Pole Report, discussed earlier, starting from the 2<sup>nd</sup> year forward (or third report), under the status section for preventative double poles. In our view, establishing or even advocating for any targets regarding preventative double poles, at this time, would be inconsistent with the collaborative spirit of this docket and would be unreasonable and even arbitrary since, among other things, it would not take into consideration the Parties' new stipulated process changes set forth in the Stipulated Plan.

### **3. Additional Funding Is Not Prudent.**

According to the Company, due to the expected costs saving resulting from the revised RFP, it is no longer requesting the additional \$500,000 to cover contract costs for double pole removals, but is requesting this funding to expedite removals of the 2018

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<sup>57</sup> See Application, Exhibit A at 29 (Response to Question-03, line no. 10). The figure 1,086 is derived by averaging the number of total double poles reported for years 2019-2023 (i.e.,  $1,218 + 1,088 + 1,011 + 1,081 + 1,034 = 5,432/5 = 1,086$ , rounded).

double pole backlog and any incidental costs related to double pole removals.<sup>58</sup> At this juncture, the Consumer Advocate recommends that the Commission refrain from entertaining this funding request. The Consumer Advocate's position with respect to additional funding for double pole removals, regardless of the source of the funding, is that it needs to be coupled with express penalties for non-performance or undue delays regarding equipment transfers and double pole removals. At this juncture, the record regarding penalties is incomplete and would be premature.<sup>59</sup> Thus, the Consumer Advocate believes that addressing the Company's request for additional funding, even as adjusted, is ill-advised and not prudent.

In addition, while speeding up the removal of double poles in the field would generally be in the public good, the Consumer Advocate believes that a measured and balanced approach would better serve the public interest at this time given the host of other issues and concerns that require serious attention and funding including, wildfire mitigation and planning, and infrastructure improvements and hardening, to name a few, which could impact removal of double poles. Moreover, implementation of the process changes stipulated to by the Parties is expected to help reduce costs associated with double pole removals. As the Company notes in response to PUC-HECO-IR-02, while it foresees Stipulations 5 through 9 will help reduce costs more than others, the Company states the need for the Parties to make forward progress with respect to the process changes agreed upon to provide a more detailed estimate of cost reduction.<sup>60</sup> Thus, the

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<sup>58</sup> See Response to PUC-HECO-IR-01 at 4.

<sup>59</sup> See Application, Exhibit B at 17.

<sup>60</sup> See Response to PUC-HECO-IR-02 at 2.

Consumer Advocate offers that the prudent approach at this juncture is to monitor the Parties' efforts in implementing the Stipulated Plan which should result in reducing the total number of double poles (i.e., both backlog and preventive) and fully understand the costs savings associated with the stipulated process changes before considering any request for additional funding, if even necessary.

**4. Procedure To Enhance The Stipulated Plan Should be Established.**

The Consumer Advocate views the Stipulated Plan as an evolving process that will allow for opportunities for development and enhancements. Within the Stipulated Plan there are various instances where the Parties identify additional discussions on various topics and work that is still to be considered. For instance, with respect to the stipulations regarding One Touch *concepts* (Stipulations 5 and 6), the Parties agree to continue to discuss best ways to utilize approved contractors and crews in the spirit of One Touch, and while certain applicable Stakeholders agree to specific process changes, others merely state their intent to explore or discuss One Touch *concepts*.<sup>61</sup> In addition, while the Consumer Advocate applauds the C&C express commitment to enhance its proactive vegetation management program by trimming back vegetation a reasonable distance beyond its allocated space on the pole (Stipulation 13), the Parties also agree to continue discussing vegetation as it relates to double poles, as part of the Stipulated Plan (Stipulation 14).<sup>62</sup> These are just a couple of areas wherein the Parties have stipulated

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<sup>61</sup> See Application, Exhibit B at 7-9.

<sup>62</sup> See Application, Exhibit B at 15.

to continue discussions on various issues and process changes. The Consumer Advocate is hopeful that the Parties through further meetings and evaluation of data from the new processes can develop and stipulate to additional provisions and process changes that can enhance the Stipulated Plan.

Accordingly, the Consumer Advocate offers that there should be an established procedure for the Parties to supplement the Stipulated Plan through the submittal of addendums as new provisions or process agreements are developed and new stipulations are reached regarding equipment transfers and double pole removals. For instance, consideration can be given that any filed addendum to the Stipulated Plan could be approved 30 days upon filing without further Commission action, unless an order is issued by the Commission to suspend the implementation of the provision for further review.

#### **5. Continued Periodic Meetings And Assessment of Public Access Information.**

In the Stipulated Plan, the Company mentions that it has established monthly meetings with HT and Charter to discuss progress and any issues related to double poles, and states that HT and Charter have agreed to meet periodically to discuss issues separately as well.<sup>63</sup> The Consumer Advocate supports these efforts and believes that periodic meetings to discuss any issues that arise or progress made would be constructive.

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<sup>63</sup> See Application, Exhibit B at 6.



To further advance these efforts, the Consumer Advocate offers that it could also be helpful for periodic meetings of all the Parties to the Stipulated Plan. Periodic meetings of all the Parties would be a good forum for discussing and developing additional process changes for increased efficiencies related to equipment transfers and double pole removals which, once fully evaluated, could be filed as an addendum to the Stipulated Plan in the manner discussed above. In addition, such meetings would be an opportunity for the Parties to “self-police” to ensure that double pole removals are addressed in a timely manner as advanced by the Parties in the Stipulated Plan.<sup>64</sup>

The Company recommends that periodic meetings of all the Parties could, in general, be held on a quarterly basis.<sup>65</sup> This cadence of periodic meetings of all the Parties to the Stipulated Plan sounds reasonable, and the Consumer Advocate supports such efforts.

In addition, a means for the public to access information regarding double poles would provide transparency regarding the process and be helpful. In response to PUC-HECO-IR-02(d), the Company states that it “. . . is exploring options for the best way to make the information publicly available, including the option of having a page on the Company’s website to track how many poles are removed on a monthly basis.”<sup>66</sup>

The Consumer Advocate encourages the Company to continue to explore its options in this area and also consider a straightforward and easy method for the public to report double poles that need to be addressed (rather than as a general complaint). The

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<sup>64</sup> See Application, Exhibit B at 17.

<sup>65</sup> See Response to CA-IR-4 at 1.

<sup>66</sup> See Response to PUC-HECO-IR-02 at 5.

Consumer Advocate believes that the Company's information regarding double poles should be transparent, and undertaking this task would demonstrate the Company's commitment regarding the removal of double poles and help address public concerns regarding them. Accordingly, the Consumer Advocate recommends that the Commission consider requiring the Company to report on its public engagement efforts, which can be filed with the submittal of the first Double Pole Report.

**6. Increasing the Rate of Double Pole Removals Could be Considered as a Goal or Metric as Part of a Performance Incentive Mechanism.**

The Commission in Docket No. 2018-0088, issued Decision and Order No. 37507, on December 23, 2020 ("D&O 37507"), to establish the Performance-Based Regulation ("PBR") Framework to govern Hawaiian Electric. In so doing, the Commission shifted the regulatory structure of the Company to reflect the desire to link the utility's revenues more directly to performance, rather than to cost of service.<sup>67</sup> In the PBR docket, several Performance Incentive Mechanisms ("PIMs") were developed to monitor and gauge the Company's performance. As the Commission explained, the role of PIMs is,

. . . intrinsically tied to that of the primary revenue adjustment component, the [Annual Revenue Adjustment ("ARA")], and is intended to act in a complementary fashion by balancing the cost control incentives delivered through the ARA with opportunities to earn significant financial rewards for *exemplary performance*.<sup>68</sup> (emphasis added)

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<sup>67</sup> See Order No. 40852 Providing Preliminary Guidance Regarding the Comprehensive Review of the Performance-Based Regulation Framework, issued on June 19, 2024, in Docket No. 2018-0088, at 2.

<sup>68</sup> D&O 37507, at 92.

In general, PIMs are based on quantifiable and measurable indicators that translate into financial rewards or penalties for a utility and can be designed to address specific priority areas such as for improved service reliability and fewer interconnection delays. As of now, there are 12 approved PIMs under which the Company's performance is measured.<sup>69</sup>

In valuing and prioritizing the removal of double poles, especially the 2018 double pole backlog, the Consumer Advocate offers that development of a PIM considering the removal of double poles could, at some time, be contemplated in Docket No. 2018-0088, which could be done as part of the Commission's review of the PBR Framework. Such a PIM could also be considered as part of a general safety-related PIM focused on certain high priority safety-related outcomes (such as decreasing the total number of double poles). The Consumer Advocate notes that the Company believes that a PIM on double pole removal is not necessary because it agreed to commitments and stipulations through this docket, and offers that such "[a] PIM would also not address responsibilities and obligations of the Stakeholders and their role in the administration and removal of existing and new double poles."<sup>70</sup>

While we understand the Company's position on this matter, the Consumer Advocate offers that a PIM related to double poles could be designed to measure aspects of double pole removals under the Company's control, and provide sufficient buffers (and/or deadbands) as reasonable. Furthermore, a safety-related PIM could prioritize and incentive other high priority safety-related outcomes. The

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<sup>69</sup> See Company's Transmittal No. 24-01, Spring Revenue Report, filed on March 28, 2024, in Case No. 2023-04666, at 20.

<sup>70</sup> Response to CA-IR-9.

Consumer Advocate believes that establishing such a PIM could encourage the Company to continue to innovate (as in the revised RFP for contractors) and incentivize the Company to urge and motivate the Stakeholders to develop and agree on other process efficiencies related to double pole removals.

Nonetheless, the Consumer Advocate recognizes that further discussion is necessary as it relates to the establishment of a new PIM. As mentioned above, while the Consumer Advocate believes that the Stipulated Plan is reasonable, we reiterate that verification through reporting is key. At this juncture, the Consumer Advocate is encouraged by the steps and measures taken and recognizes that the commitment to remove all 2018 backlog double poles in 2028. As such, time should be given to understand how well (or not) the Stipulated Plan can produce timelier removals of double poles. Reporting by the Company should be able to clearly demonstrate that: (1) HT and the Company are on track to eliminate the 2018 double pole backlog in 2028; and (2) preventive double poles are being removed in a timely manner and that growth in preventive double poles are under control. After at least a year under the Stipulated Plan, if it appears that the Parties cannot “self-police” (i.e., HT and the Company are not on track on eliminating the 2018 double pole backlog, as promised, and that preventive double poles are growing without significant decrease in the numbers), the Commission should then consider establishing a PIM. Upon making a determination to move forward with a PIM, the actual evaluation and development of the mechanism would, of course, be in Docket No. 2018-0088, the Commission’s PBR proceeding. At this juncture, the Commission is beginning its comprehensive examination of the PBR Framework for the second Multi-Year Rate Period, projected to begin on January 2027, which includes the

examination of all the PBR mechanisms (including PIMs) and the need to modify or propose new mechanisms.

## **7. Additional Comments for Consideration.**

In addition to the above recommendations, the Consumer Advocate is interested in the Parties' efforts regarding vegetation management, as it relates to double poles and believes that vegetation growth on or around the poles is a significant safety-consideration. The Parties state that “[o]vergrown vegetation can slow down double pole transfers and removals.”<sup>71</sup> Generally, with respect to vegetation on poles, the Company notes the following:

Hawaiian Electric is responsible for maintaining the vegetation on and in the immediate vicinity of its own equipment, which typically is the electrical equipment located at the top of the pole. Third-party attachers are similarly responsible for vegetation management on and in the immediate vicinity of their equipment.<sup>72</sup>

According to the Company, if it believes that vegetation in the communication space is either threatening an attacher's equipment or the integrity of the pole, the Company sends a notice to the attacher for corrective action.<sup>73</sup> While not expressly prohibited from removing vegetation in the communications space on the pole, the Company states that it is not authorized to utilize ratepayer funds to cover the incremental costs to do so, and that under its contracts with carriers, carriers are required to perform their own vegetation

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<sup>71</sup> Application, Exhibit B at 15.

<sup>72</sup> Response to PUC-HECO-IR-02 at 4 (footnote omitted).

<sup>73</sup> See Response to CA-IR-6 at 1.

management.<sup>74</sup> The Company states that currently its “. . . contracts with the carriers do not provide for cost-sharing of vegetation management in the communication space.”<sup>75</sup> In response to PUC-HECO-IR-02, the Company states that its PIE Division is responsible for proposing amendments to pole attachment agreements with third-party attachers and that it plans on proposing new language in its next round of negotiations, but based on past experience the Company notes that vegetation management is a difficult topic to address, due to differing viewpoints,<sup>76</sup> as well as considering any liability issues that may impact the Company and other stakeholders.

During the periodic meetings, as mentioned above, the Consumer Advocate is hopeful that the Parties can further discuss and develop additional concrete agreements on vegetation management as it relates to double poles. We are encouraged that the Company intends to take up the issue of vegetation management during its next round of negotiations with third-party attachers. However, should these negotiations fail to result in meaningful advancement regarding vegetation management, including appropriate cost-sharing provisions, the Commission may then need to consider revising its rules, specifically Hawaii Administrative Rules Chapter 6-80, Competition in Telecommunications Services, regarding this and possible other issues related to double pole removals, as applicable and reasonable.

In addition, should the Parties fail to effectively implement the Stipulated Plan, and not ensure that double poles (both backlog and preventive) are removed in a timely

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<sup>74</sup> See Response to CA-IR-6 at 2.

<sup>75</sup> Response to CA-IR-6 at 2.

<sup>76</sup> See Response to PUC-HECO-IR-02 at 4-5.

manner, the development of a statewide One Touch program should be considered. The Company in its response to CA-IR-5, states that such a program could be established and implemented but reminds us that it cannot do so without direction from the Commission or Legislature since it cannot force attachers to participate.<sup>77</sup> With respect to such a program, the Company shares the following:

The Company believes it has made headway with the [S]takeholders on the idea of adopting One Touch concept in the future related to transfers for double poles. All Parties agree there is work to be done to make sure One Touch can be executed properly. The Company supports continued discussion in this area rather than the Commission enforcing a statewide One Touch program.<sup>78</sup>

The Consumer Advocate is hopeful that the Parties can move forward with One Touch *concepts* and are able to demonstrate that they can “self-police” regarding equipment transfers and double pole removals. On the other hand, if unable to do so, the Consumer Advocate reiterates that a statewide One Touch program for double pole removals should be considered. In our view, the development of a statewide One Touch program would require legislation given that such a program would impact various non-utility stakeholders including unions and the counties for whom the Commission has no jurisdiction.

Whether additional regulatory intervention is needed is dependent on the Parties’ ability to carry out the Stipulated Plan, as well as other steps to provide other interested stakeholders and the public the opportunity to provide their input. With that in mind, the Consumer Advocate does not currently recommend that the Commission take further steps in this docket. Other considerations, including the development of a safety related

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<sup>77</sup> See Response to CA-IR-5 at 1.

<sup>78</sup> Response to CA-IR-5 at 3.

PIM that contemplates accelerating the rate at which the total number of double poles is decreased, revising Commission rules, and investigating the necessary elements related to a statewide One Touch program concerning double poles, would require additional work, potentially in other proceedings, and regulatory resources. The Consumer Advocate believes that unless the Parties fail to effectively implement the Stipulated Plan, which requires time and monitoring to determine, the Commission should consider refraining from imposing additional regulatory requirements aside from those discussed in or related to subsections 1-5, above at this time.

**III. RECOMMENDATION.**

Based on the foregoing, the Consumer Advocate recommends that the Commission approve the Stipulated Plan. In so doing, the Consumer Advocate also requests that the Commission consider the various proposals and recommendations described in Section II.B. subsections 1-5, above, which may assist in the efforts to implement the Stipulated Plan and help address double pole issues going forward.

DATED: Honolulu, Hawaii, July 19, 2024.

Respectfully submitted,

By /s/ Michael S. Angelo  
MICHAEL S. ANGELO  
Executive Director

DIVISION OF CONSUMER ADVOCACY



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S STATEMENT OF POSITION** was duly served upon the following parties electronically to the e-mail addresses below pursuant to HAR § 16-601-21(d), as modified by Order No. 38270 Setting Forth Public Utilities Commission Electronic Filing and Service Procedures, filed on March 14, 2022.

KEVIN M. KATSURA  
DIRECTOR, REGULATORY NON-RATE PROCEEDINGS  
Hawaiian Electric Company, Inc.  
P.O. Box 2750  
Honolulu, Hawaii 96840-0001  
Email: kevin.katsura@hawaiianelectric.com  
richard.vandrunen@hawaiianelectric.com  
regulatory@hawaiianelectric.com

DATED: Honolulu, Hawaii, July 19, 2024.

/s/ S. Strack\_\_\_\_\_

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