

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of

HAWAIIAN ELECTRIC COMPANY, INC.,
HAWAII ELECTRIC LIGHT COMPANY, INC.,
AND MAUI ELECTRIC COMPANY, LIMITED
dba HAWAIIAN ELECTRIC

For Approval of Stipulated Comprehensive Double
Pole Remedy Plan

DOCKET NO. 2024-0121

**HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY,
INC., AND MAUI ELECTRIC COMPANY, LIMITED'S MOTION
FOR RECONSIDERATION AND/OR CLARIFICATION OF DECISION AND ORDER
NO. 41034**

MEMORANDUM IN SUPPORT OF MOTION

AND

CERTIFICATE OF SERVICE

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HAWAIIAN ELECTRIC COMPANY, INC.
HAWAII ELECTRIC LIGHT COMPANY, INC.
MAUI ELECTRIC COMPANY, LIMITED

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HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND MAUI ELECTRIC COMPANY, LIMITED (collectively “Hawaiian Electric” or the “Company”), respectfully move the Public Utilities Commission of the State of Hawaii (the “Commission”) for reconsideration and/or clarification of the language in Decision and Order No. 41034 (“D&O No. 41034”), that instructs Hawaiian Electric to periodically publish and file estimated numbers of non-standard backlog and non-standard preventative double pole counts.¹ While the Company is responsible for performing and tracking standard pole transfers, other stakeholders are responsible for performing and tracking non-standard transfers. Accordingly, it is the Company’s position that other stakeholders should provide the information on non-standard transfers requested by the Commission in D&O No. 41034 since the information is not readily available to or under the control of the Company.

¹ See D&O No. 41034 at 28, 29, 31.

For reasons more fully set forth in the attached Memorandum in Support of Motion, the Company respectfully requests reconsideration of the language in D&O No. 41034 that orders Hawaiian Electric to publish and file information on non-standard backlog and non-standard preventative double poles. The Company further requests that the Commission instead order Hawaiian Telecom to provide and file the subject non-standard backlog and non-standard preventative double pole information. In the event that the Commission declines to reconsider this requirement, the Company requests clarification as to the method for Hawaiian Electric to publish and file the requested non-standard backlog and non-standard preventative double pole information, which is not readily available to Hawaiian Electric. The Company proposes that, in addition to providing standard transfer backlog and standard preventive double pole data on its website, the Company can also provide web link(s) to direct users to the appropriate stakeholder's website who is responsible for non-standard backlog and non-standard preventive double pole removals in order to obtain information on those non-standard removal numbers.

This motion is filed pursuant to the Commission's Rules of Practice and Procedure, Hawai'i Administrative Rules ("HAR") Sections 16-601-41 and 16-601-137,² the entire record in Docket No. 2024-0121, and the facts and law set forth in the Memorandum in Support of Motion, which is attached hereto. No hearing is requested on this motion.

² HAR § 16-601-137 states that a motion seeking any change in an order of the Commission "shall be filed within ten days after the decision or order is served upon the party . . ." The Company was served D&O No. 41034 on September 16, 2024 through the Commission's Document Management System. Ten days from September 16, 2024 is September 26, 2024. Therefore, this Motion is timely filed.

DATED: Honolulu, Hawai'i, September 26, 2024.

/s/Tracie M.K. Black
TRACIE M. K. BLACK

Attorney for
HAWAIIAN ELECTRIC COMPANY, INC.
HAWAI'I ELECTRIC LIGHT COMPANY, INC.
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MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

The Company appreciates the Commission's review and approval of the Stipulated Comprehensive Double Pole Remedy Plan ("Stipulated Plan"), but seeks reconsideration of the requirement in D&O No. 41034 that the Company publish and file information, including tallies, on non-standard backlog and non-standard preventative double poles. These non-standard transfers are the responsibility of Hawaiian Telcom, not Hawaiian Electric. The Company submits that the subject non-standard transfer information is not within its possession or control and should be provided by Hawaiian Telcom.

Accordingly, the Company respectfully requests reconsideration of the requirement in D&O No. 41034 that the Company publish and file information on non-standard transfers. The Company requests that the Commission order Hawaiian Electric to report only on the standard transfer double poles it is responsible for, and order Hawaiian Telcom to publish and file information on non-standard double pole transfers that it is responsible for. In the event that the Commission declines to reconsider its requirement, the Company requests clarification on the

method for Hawaiian Electric to ensure that information not under its control is timely and accurately provided to the Commission and public.

II. LEGAL STANDARD

Hawai'i Administrative Rules Section 16-601-137 states, “[a] motion seeking any change in a decision, order, or requirement of the commission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall be filed within ten days after the decision or order is served upon the party, setting forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.”

“[T]o succeed on a motion for reconsideration, the movant must demonstrate that the commission’s decision or order was ‘unreasonable, unlawful, or erroneous.’” *In re Hawaiian Elec. Co.*, Docket No. 05-0069, Decision & Order No. 22921, at 6, 2006 WL 3736077 (Oct. 4, 2006). In evaluating a motion for reconsideration, the Commission considers “whether matters have been overlooked or mistakenly conceived.” *Id.* (citing *In re Gray Line Haw., Ltd.*, Docket No. 96-0217, Decision & Order No. 15380 (Feb. 25, 1997) and *In re Kauai Elec. Div. of Citizens Utils. Co.*, 61 Haw. 166, 195 (1978)).

Clarification and modification is proper where “[i]t was not the commission’s intent” to cause or bring about a result or consequence through the language of an existing order, *see In re Hawaiian Elec. Co.*, Docket No. 03-0036, Order No. 21463, at 2, 2004 WL 3636444, at *1 (Nov. 17, 2004), or where it is necessary to correct “implications” or to ensure “consistency” with existing law, *see In re Hawaiian Elec. Co.*, Docket No. 05-0276, Order No. 22858, at 3, 2006 WL 3377660, at *2 (Sept. 15, 2006), or where a particular finding or statement constitutes an “inadvertent error,” *see In re Laie Water Co.*, Docket No. 00-0017, Order No. 18479, at 8, 2001 WL 469060 (Apr. 11, 2001), or where “there may be some confusion regarding” the applicability

of an order, *see In re Waikoloa Water Co., Waikoloa Sanitary Sewer Co., Inc., Waikoloa Resort Utils., Inc., & Haw. Water Serv. Co.*, Docket No. 2008-0018, Order, at 4, 2009 WL 979688, at *1 (Mar. 12, 2009).

A motion for clarification should be granted, and the language of an order appropriately modified, where it is reasonable to do so. *See, e.g., In re Hawaiian Elec. Co.*, Docket No. 05-0276, Order No. 22858, at 4, 2006 WL 3377660, at *2 (Sept. 15, 2006) (“Accordingly, the commission finds it reasonable to grant HECO’s Motion for Clarification and amend ordering paragraph no. 1”); *In re Polynesian Adventure Tours, LLC, Roberts Tours & Transp., Inc., & Carry-All, Inc.*, Docket No. 2016-0160, Order No. 34101, at 5, 2016 WL 6920629, at *3 (Nov. 9, 2016) (“[T]he commission finds the requests for clarification, reconsideration, and/or modification . . . to be reasonable, and therefore orders the following”).

III. DISCUSSION

In D&O No. 41034, the Commission discusses conditions of approval in section III.B., requiring that Hawaiian Electric publish a website of quarterly data and file reports in this docket on a semi-annual basis.³ With regard to the website, the Commission orders as follows:

- b. Starting with the quarter the webpage goes live, and going forward on a quarterly basis, graphs for each service territory will show the:
 - i. Hawaiian Electric’s estimated number of standard ***and non-standard*** backlog and preventive double poles as of the date this information is originally posted to the website;
 - ii. Current estimated number of remaining standard ***and non-standard*** backlog and preventive double poles; and
 - iii. The breakdown of the total number of remaining backlog standard ***and non-standard*** double poles and preventive double poles by Hawaiian Electric company (i.e., for HECO, HELCO, MECO).

³ *See* D&O No. 41034 at 27.

- c. Starting with the quarter the webpage goes live, and going forward on a quarterly basis for the quarter immediately prior, graphs will show the total number of backlog double poles removed each quarter, split by standard and *non-standard* removal, with backlog double pole removal targets overlaid;⁴

With regard to the reporting, the Commission orders Hawaiian Electric to file bi-annual progress update reports in this docket, which would include data from the double poles webpage.⁵

The Company submits that the above language requiring Hawaiian Electric to publish and file quarterly and bi-annual information on non-standard transfers of double poles is unreasonable, as compliance would require Hawaiian Electric to collect information that is not under its responsibility or control, nor able to verify. Hawaiian Electric's Double Pole Removal Plan, provided in Exhibit C of the Application, sets forth the Company's short- and long-term plans, which include double pole standard transfer removal target estimates and timeframes.⁶

The Company does not address non-standard transfer removal targets in its plan, as other stakeholders are responsible for non-standard transfer removals and other transfers, and have addressed those targets in their own comments on the Stipulated Plan.⁷

If the Commission declines reconsideration of the language in III.B, the Company respectfully requests clarification as to the method for the Company to timely obtain and verify the subject information that is ordered to be published and filed, considering the information is not readily available to or under the control of Hawaiian Electric. The Company notes that Hawaiian Telcom has offered monitoring and reporting of its own numbers of preventative and backlog non-standard transfers via a digital dashboard, which would include real-time tracking.⁹

⁴ *Id.* at 28-29 (emphasis added).

⁵ *Id.* at 31.

⁶ *See* Application, Exhibit C at 1-5.

⁷ *Id.* at Exhibits D, E.

⁹ *See* Application, Exhibit D, at 2 of 2.

Accordingly, Hawaiian Electric proposes that, rather than providing Hawaiian Telecom's non-standard backlog and preventive double poles information on the Company's website, the Company can include an explanation of the different types of transfers (standard and non-standard) and the corresponding responsibility for removal, as well as direct links to Hawaiian Telecom's website, who is responsible for non-standard transfers, so that both reporting entities report on the data that is within the realm of their respective responsibility and control.

Requiring Hawaiian Electric to collect and timely provide data that it is neither responsible for nor that it can verify, is unreasonable. Hawaiian Electric does not have authority over Hawaiian Telecom to require it to timely provide Hawaiian Telecom's non-standard double pole data, and instead recommends that the Commission, which does have regulatory authority over Hawaiian Telecom, require it to report on the data that Hawaiian Telecom is responsible for.

As other options exist for reporting of non-standard transfers than are provided for in D&O 41034, and more importantly because this information is in the possession and control of other stakeholders, the Company requests that the Commission reconsider the language in D&O 41034 that orders Hawaiian Electric to publish and file information on non-standard transfer numbers. Hawaiian Telecom did not object to the Company's suggestion that each party be responsible for reporting on the data within its respective scope of responsibility and control.

IV. CONCLUSION

Based on the foregoing, the Company respectfully requests; (1) reconsideration of the requirement in D&O No. 41034 that the Company publish and file information on non-standard transfers, and; (2) modification of the language to direct Hawaiian Telecom to publish and/or file the subject information. If the Commission declines reconsideration of the language in III.B, the Company respectfully requests clarification as to the method for the Company to timely obtain

and verify the subject information, considering the information is not readily available to or under the control of Hawaiian Electric.

DATED: Honolulu, Hawai'i, September 26, 2024.

/s/Tracie M.K. Black
TRACIE M.K. BLACK

Attorney for
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CERTIFICATE OF SERVICE

I hereby certify that I have on this date served the foregoing *Motion for Reconsideration and/or Clarification of Decision and Order No. 41034*, together with this Certificate of Service, upon the following, by causing a copy hereof to be served by electronic mail, as set forth below:

Department of Commerce and Consumer Affairs
Division of Consumer Advocacy
335 Merchant Street, Room 326
Honolulu, Hawaii 96813
mangelo@dcca.hawaii.gov
consumeradvocate@dcca.hawaii.gov

DATED: Honolulu, Hawaii, September 26, 2024.

HAWAIIAN ELECTRIC COMPANY, INC.

/s/Richard VanDrunen

Richard VanDrunen

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PUBLIC UTILITIES

COMMISSION

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The foregoing document was electronically filed with the State of Hawaii Public Utilities Commission's Case and Document Management System (CDMS).