BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

---------- In the Matter of ----------

PUBLIC UTILITIES COMMISSION

(NON-DOCKETED)

Commission Suspension of Termination or Disconnection of Services Due to Non-Payment Related to Maui Wildfires and Directing Affected Maui Utilities to Pursue All Available Aid.

ORDER NO. 40313

CONTINUING SUSPENSION OF TERMINATION OR DISCONNECTION OF MAUI UTILITIES’ REGULATED UTILITY SERVICES DUE TO CUSTOMER NON-PAYMENT AND/OR ASSESSMENT OF CERTAIN OTHER CHARGES
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By this Order, based on the extraordinary circumstances related to the August 2023 Maui wildfires (“Wildfires”), the Hawaii Public Utilities Commission (“Commission”) directs that, during the pendency of the Governor’s Emergency Proclamations Relating to Wildfires (“Ongoing Suspension Period”),¹ unless otherwise ordered and subject to the conditions

¹“Ongoing Suspension Period” starts from August 8, 2023, the issuance date of Acting Governor Sylvia Luke’s First Emergency Proclamation relating to the Maui Wildfires and continues thereafter, as extended by Governor Josh Green. “First Proclamation Related to Wildfires,” available at: https://dod.hawaii.gov/hiema/governor-issues-emergency-proclamation-relating-to-wildfires/. On September 8, 2023, Governor Green issued the Seventh Proclamation Related to Wildfires, effective through November 6, 2023, superseding the Sixth Proclamation Relating to Wildfires, issued on
herein: (1) all Commission-regulated electric, gas, telecommunications, water, and wastewater public utilities located on Maui, or providing utility service on Maui ("Maui Utilities," or "Maui Utility," individually), suspend disconnections of electricity, gas, telecommunications, water, and wastewater services\(^2\) and associated disconnection fees; (2) any and all rules


The Commission also notes that on August 21, 2023, Maui Electric Company, Ltd. ("MECO") filed an application (assigned to Docket No. 2023-0349) requesting Commission approval for “the deferral of costs related to the Company’s response and restoration efforts and other expenses arising from and associated with the recent Maui windstorm and wildfires event . . . beginning from August 8, 2023, the date the Company commenced emergency response and restoration efforts.” “Application of Maui Electric Company, Limited; Exhibits A-C; Verification,” filed on August 21, 2023, in Docket No. 2023-0349, at 1 ("Application"). The Commission distinguishes the deferral of costs related specifically and only to suspension of disconnections authorized here, from MECO’s request in its Application, and will also address this, as needed, in any orders regarding that Application.

As discussed in Ordering Paragraph No. 12, below, the Commission will continue to periodically review the ongoing Maui Utility reporting to determine whether to maintain the Ongoing Suspension Period and will announce any upcoming changes or a disconnection suspension sunset by subsequent order.

\(^2\)The Commission issued Order No. 40218 (Non-Docketed), “Directing Maui Utilities to Suspend Termination or Disconnection of Regulated Utility Services Due to Non-Payment and/or Assessment of Other Charges Through October 17, 2023, and Directing Affected Maui Utilities to Pursue All Available Aid,” on August 31, 2023 ("Order No. 40218"). The Commission noted in Order No. 40218 that it would “assess whether to extend the Suspension Period prior to October 17, 2023," and would issue an order
and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers, including new connection fees and deposits, shall be suspended; (3) Maui Utilities shall not charge customers interest on past due payments, or impose any late payment fees; (4) each of these Maui Utilities is authorized to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense\(^3\)) and shall record receipt of governmental aid and donation-based aid, loans or grants, and/or all other assistance measures, and any cost savings realized; (5) the filing of emergency or general rate increases in response to the emergency situation is discouraged; and (6) any Maui Utility shall file a notice with the Commission regarding any upcoming application or other request pursuant to HRS §§ 269-16.3, -17, -17.5, -18, -19, or -19.5, and/or regarding any significant financial change to the Maui Utility, at least sixty (60) days prior to filing such application or other request with the

3By “incremental bad debt expense,” the Commission refers to customer non-payment of bills that exceeds the amount a utility expects or allows for in base rates. The Commission understands utilities may use different terms for this expense.
Commission ("Notice").\(^4\) In the Notice, the Maui Utility shall describe, in detail, the nature of the upcoming application or other request, the expected timing for filing of that application or request, and any requested timing for a Commission decision. Further, apart from any Notice described above, to the extent applicable, the Maui Utility shall file a monthly report by the last day of the month (first report due October 31, 2023) with a brief description of the status, including the procedural posture and any new or amended claims related to any Wildfire-related litigation involving the Maui Utility, whether pending or yet to be filed (e.g., the Maui Utility has prior knowledge regarding any such upcoming action).\(^5\)

As noted in Order No. 40218, if a utility elects to utilize deferred accounting for disconnection suspension costs while the disconnection suspension is still in effect, the Commission will assess, in appropriate future proceedings (i.e., rate case, application for cost recovery, etc.), whether

\(^4\)The obligation for a Maui Utility to provide Notice also applies to any upcoming application or other request to be filed with the Commission by the Maui Utility parent company/ies.

\(^5\)This report shall include all Wildfire-related litigation, including past litigation as well as any newly-filed and pending lawsuits. The Maui Utility shall also provide any publicly available information not yet reported to the Commission about any previously-pending lawsuits that have been concluded since a prior month’s report.
each Maui Utility’s request for recovery of these regulatory assets is reasonable and necessary, the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.

The Commission also continues to direct, during and after the Ongoing Suspension Period, the Maui Utilities affected by the Wildfires to pursue all available aid, including but not limited to any federal funding. The Commission also urges the Maui Utilities to consider proactive actions that enable customers to pay their utility bills to the extent feasible during and after the Ongoing Suspension Period, to mitigate the risks of customer disconnection after the Ongoing Suspension Period ends, and to facilitate utility financial integrity during the Ongoing Suspension Period.

Maui Utilities should continue to work with customers to coordinate payment plans, in efforts to prevent a customer from having to pay a future large lump sum bill following the Ongoing Suspension Period.

See Order No. 40218 at 6.

Order 40218 at 6-7, suggested, for example, that the Maui Utilities should prioritize educating customers by, among other things, identifying sources of available public and/or private aid that may be available to customers, such as the Low Income Home Energy Assistance Program (LIHEAP) and the Low Income Household Water Assistance Program (LIWAP).
Suspension Period. The Commission also encourages Maui Utilities to emphasize to customers the importance of energy efficiency and water conservation, which can help in reducing bills as well as the likelihood of disconnection.

THE COMMISSION ORDERS:

1. Maui Utilities, beginning from the date of the Acting Governor’s First Emergency Proclamation relating to the Maui Wildfires issued on August 8, 2023 and continuing during the Ongoing Suspension Period, unless otherwise ordered by the Commission, shall continue to (a) suspend disconnections of electricity, gas, telecommunications, water, and wastewater services and associated disconnection fees; and (b) suspend any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers, including new connection fees and deposits.

2. Each Maui Utility continues to be authorized to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense) and shall record receipt of governmental aid and donation-based aid, loans or grants, all other assistance measures, and any cost savings realized during the Ongoing Suspension Period.

3. The Commission will discuss, via future order, details regarding Maui Utilities’ payment plans or other Non-Docketed
reasonable arrangements for customers once the suspension of disconnections are lifted, as appropriate.

4. The Commission also directs Maui Utilities not to charge customers interest on past due payments, or impose any late payment fees, through the Ongoing Suspension Period.

5. During the Ongoing Suspension Period, any Maui Utility that books regulatory assets consistent with the authorization provided in this Order, shall also file a quarterly report (the next relevant quarter ends on December 31, 2023, and the quarterly report is due on the last day of the month following the quarter’s end), detailing the amounts of the incremental costs incurred and any savings realized, which have been booked to the regulatory assets. These quarterly reports should include: (a) updated information regarding status of the Maui Utility’s provision of services to its customers, and any details regarding significant changes to its customer base; (b) the Maui Utility’s financial condition, (c) a list of the measures the Maui Utility has in place, if any, to assist its customers during the Maui Wildfire emergency situation, and (d) a discussion of the Maui Utility’s education and outreach efforts to assist customers with continuing to pay their utility bills and mitigating any adverse
impacts. A Maui Utility shall inform the Commission in its quarterly reports if a previously-reported upon measure the Maui Utility had in place to assist customers has since been terminated, as well as a short description of the Utility’s rationale for the termination of that measure. The Maui Utility shall also provide information regarding the status of the Maui Utility’s provision of service to customers and any significant change in its customer base as a result of the Wildfires or its current financial condition.

6. This Order shall not affect a Maui Utility’s ability to disconnect a customer’s service for public safety concerns unrelated to non-payment of services.

7. The Commission also emphasizes that customers should continue paying their bills to the extent possible during the Ongoing Suspension Period, but also states that it issues this

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8The Commission notes that pursuant to a request from Maui Electric Company, Limited, dated September 29, 2023, the due dates for MECO’s reports pursuant to this Paragraph have been adjusted to being due on the last business day of the month following quarter end, rather than on the 15th day of the month following quarter end. For consistency of reporting due dates, the Commission thus changes the due date for these reports for all Maui Utilities to the last business day of the month following quarter end.

9The Commission directs that even if a Maui Utility opts not to book regulatory assets pursuant to the authorization provided in this Order, the Maui Utility should still send a quarterly status update to the Commission pursuant to this Paragraph, because that information is useful to future decision-making related to the ongoing disconnection suspension.
Order to acknowledge that the Maui Wildfires have resulted in significant disruption to some customers’ ability to make those payments.

8. If a Maui Utility subject to this Order maintains a website, such Maui Utility shall provide notice of this Order’s content on such website, and in any other prominent place that the Utility finds will help inform its customers.

9. The Commission also directs Maui Utilities affected by the Wildfires to pursue all available aid, including federal funding, during and after the Ongoing Suspension Period. The Commission discourages requests for emergency rate relief or general rate increases in response to the emergency situation. Further, the Commission urges the Maui Utilities, beyond the Ongoing Suspension Period to continually educate customers as to any sources of possible aid, the availability of payment plans, and efforts to reduce bills through efficiency or conservation.

10. The Commission further establishes an ongoing requirement that a Maui Utility file a Notice with the Commission regarding any upcoming application or other request pursuant to HRS §§ 269-16.3, -17, -17.5, -18, -19, or -19.5, and/or regarding any significant financial change to the Maui Utility, at least
sixty (60) days prior to filing such application or other request. In the Notice, the Maui Utility shall describe, in detail, the nature of the upcoming application or request, the expected timing for filing of that application or request, and any requested timing for a Commission decision. Further, apart from any Notice described above, to the extent applicable, the Maui Utility shall file a monthly report by the last day of the month (first report due October 31, 2023) with a brief description of the status, including the procedural posture and any new or amended claims related to any Wildfire-related litigation involving the Maui Utility, whether pending or yet to be filed (e.g., the Maui Utility has prior knowledge regarding any such upcoming action).

11. As noted in Order No. 40218, if a utility elects to utilize deferred accounting for disconnection suspension costs while the disconnection suspension is still in effect, the Commission will assess, in appropriate future proceedings (i.e., rate case, application for cost recovery, etc.), whether each Maui

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10 As set forth above, the obligation for a Maui Utility to provide notice to the Commission also applies to any upcoming application or other request to be filed with the Commission by the Maui Utility parent company/ies.

11 This report shall include all Wildfire-related litigation, including past litigation as well as any newly-filed and pending lawsuits. The Maui Utility shall also provide any publicly available information not yet reported to the Commission about any previously-pending lawsuits that have been concluded since a prior month’s report.
Utility’s request for recovery of these regulatory assets is reasonable and necessary, as well as the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.

12. The Commission will continue to periodically review the ongoing Maui Utility reporting to determine whether to maintain the Ongoing Suspension Period and will announce any upcoming changes or a disconnection suspension sunset by subsequent order.

DONE at Honolulu, Hawaii OCTOBER 13, 2023.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By ____________________________
Leodoloff R. Asuncion, Jr., Chair

By ____________________________
Naomi U. Kuwaye, Commissioner

By ____________________________
Colin A. Yost, Commissioner

APPROVED AS TO FORM:

Caroline Ishida
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Non-Docketed 11
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