

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
KAUAI ISLAND UTILITY COOPERATIVE) DOCKET NO. 2022-0208
)
For Approval of Rate Changes and)
Increases, Revised Rate Schedules)
and Rules, and Other Matters.)
_____)

INTERIM DECISION AND ORDER NO. 40404

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INTERIM DECISION AND ORDER

By this Interim Decision and Order, the Commission approves the requested increase in rates for KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") on an interim basis,¹ as reflected in the Parties' Settlement Letter/Agreement and Statement of Probable Entitlement, filed on November 3, 2023,² and in response to KIUC's

¹The Parties are KIUC and the DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 16-601-62(a). In addition, the Commission has granted Participant status to FRIENDS OF MĀHĀ'ULEPU ("FOM"). See Order No. 40144, "Addressing (1) Friends of Maha`ulepu's Motion to Intervene or, Alternatively, Participate, and (2) Other Matters," filed on August 4, 2023 ("Order No. 40144").

²Joint Letter From: Consumer Advocate and K. Morihara To: Commission Re: Docket No. 2022-0208 (In the Matter of the Application of Kauai Island Utility Cooperative For Approval of Rate Changes and Increases, Revised Rate Schedules and Rules, and Other Matters) - Parties' Settlement Letter/Agreement and

complete application seeking a general rate increase, filed on December 28, 2022.³

I.

BACKGROUND

KIUC is a not-for-profit electric cooperative that provides electricity utility service on the island of Kauai to its owners-members. In accordance with the cooperative's ownership structure, "all of KIUC's electric customers are automatically members of [KIUC] unless a customer elects to not be a member. Currently, over 99.6% of KIUC's current electric customers are members of KIUC."⁴ KIUC is governed by its Board of Directors, whose members are elected by the cooperative's membership base.⁵

Statement of Probable Entitlement, filed on November 3, 2023 (collectively, "Stipulation").

³Application, Exhibits 1 through 10, Attachments, Verification, and Certificate of Service," filed on December 28, 2022 ("Application"). The filing date of KIUC's complete application is December 28, 2022. See Order No. 39092, "Regarding Completed Application and Other Initial Matters," filed on March 21, 2023.

⁴Application, Exhibit 10-T-100 ("Exhibit 10-T-___") at 29.

⁵Application, Exhibit 10-T-100 at 29.

A.

Docket No. 2009-0050 and Ratemaking Methodology

KIUC has had only one prior rate case proceeding before the Commission, Docket No. 2009-0050, for which KIUC filed its application on June 30, 2009.⁶ Unlike the "traditional" rate of return methodology used for investor-owned utilities ("IOU's"), KIUC's revenue requirement and rates were determined in Docket No. 2009-0050 based on the principal measure of financial performance used by KIUC's lenders at that time, i.e., the Times Interest Earned Ratio ("TIER").⁷ KIUC explains that:

TIER was at that time the principal measure of KIUC's financial performance to determine compliance with its lending covenants. KIUC had purchased the Kauai Electric assets in November 2002 through a 100% debt financed purchase, which included [the U.S. Department of Agriculture, Rural Utilities Service ("RUS")] and [National Rural Utilities Cooperative Finance Corporation ("CFC")] as financing parties.⁸

In Docket No. 2009-0050, the Commission also amended a patronage capital refund condition that had originally been

⁶Application at 5.

⁷Application at 6-7. See also Application, Attachment DJB-104 at 4 (noting that the TIER was the lender ratio that was used by KIUC's lenders at the time of Docket No. 2009-0050).

⁸Application, Exhibit 10-T-300 at 13.

imposed in Docket No. 02-0060 and, in effect, "prevents KIUC from 'over-earning' on the rates it charges to its customers/members."⁹

In Docket No. 2017-0346, the Commission approved KIUC's request to enter into and consummate an Indenture Arrangement with the RUS and CFC that amended its then-existing financing arrangements with the RUS and CFC ("Indenture Arrangement").¹⁰

In this current proceeding, KIUC is proposing to use the Debt Service Coverage ratio ("DSC Ratio"), rather than TIER, to determine its revenue requirement and rates. KIUC explains that DSC Ratio, rather than TIER, is the benchmark currently used by KIUC's lenders.¹¹

⁹Application at 6-7.

¹⁰Docket No. 2017-0346, Decision and Order No. 35101, filed on December 18, 2017, ("Decision and Order No. 35101") at 4-8 and 19. The Indenture Arrangement refers to the "Indenture of Mortgage, Security Agreement and Financing Statement" that KIUC entered into and consummated as of April 30, 2019, and which was filed in its final executed form on May 3, 2019. See Application, Exhibit 10-T-200 (Testimony of Stacie A. Dellamano at 9; Application, Exhibit 10-T-300 (Testimony of William A. Collet) at 10; and Docket No. 2017-0346, Letter From: K. Morihara To: Commission Re: Docket No. 2017-0346: In the Matter of the Petition of Kauai Island Utility Cooperative For a Declaratory Ruling That Commission Approval of Indenture Arrangement is Not Required, or, in the Alternative, For Waiver or Exemption Pursuant to Hawaii Revised Statutes Section 269-31(b) or Approval: "Notice of Consummation of Indenture Arrangement and Filing of Indenture Agreement and Amended Loan Agreements," filed on May 3, 2019 ("Notice of Consummation of Indenture Arrangement").

¹¹Application at 6 n.11.

In brief, KIUC asserts that the DSC Ratio is the appropriate metric for determining KIUC's revenue requirement for this rate case because:

It is the principal metric of financial performance under KIUC's current financing arrangements . . . ; it allows for benchmarking against other electric cooperatives to establish an industry standard expectation of lenders to electric cooperatives; and it is the basis of credit rating criteria for rating agencies that desire to produce comparative data across the electric utility industry on behalf of lenders and bond investors.¹²

Furthermore, KIUC explains that:

The DSC Ratio is generally regarded as a better measure of financial performance than the older RUS construct of TIER . . . because the DSC Ratio explicitly addresses the combined fixed charges of debt service, which is comprised of both interest expense and scheduled principal repayment. Margins are combined with interest expense and the non-cash charge for depreciation, after elimination of earnings from subsidiaries and non-cash margins from other income, to provide a numerator reflective of KIUC's operating cash flow. This cash flow numerator is then divided by principal and interest, excluding subsidiary debt, to determine the DSC Ratio.¹³

¹²Application, Exhibit 10-T-300 at 32-33. In regards to the Equity to Capitalization Ratio ("Equity Ratio"), another metric used in the Indenture, KIUC believes that "maintaining a solid DSC Ratio will mean that over time the Equity Ratio will take care of itself" in that, "at a sufficiently creditworthy and financially sustainable DSC Ratio, the Equity Ratio that results from that financial performance will ensure KIUC's access to long-term debt financing at the lowest possible rates, even in challenging credit market circumstances, due to a highly creditworthiness indicative of industry peer Equity Ratio levels." Id. at 15 and 33.

¹³Application, Exhibit 10-T-300 at 23.

To illustrate, KIUC's DSC Ratio for the fiscal year ending December 31, 2021, is calculated as follows¹⁴:

Table 3

Debt Service Coverage Ratio (DSC)		Actual 2021
a)	Net Margins	\$ 8,296,853
b)	Add back Loss from Subsidiaries	1,319,660
c)	Add back Long Term Interest	7,210,177
d)	Depreciation & Amortization	18,808,331
e)	Adjusted Margins: (Numerator)	\$ 35,635,021
f)	Long Term Interest	7,210,177
g)	Long Term Principal	14,422,637
h)	Total Debt Service (Denominator)	21,632,814
i)	Debt Service Coverage Ratio	1.65

As the Commission previously noted, the DSC Ratio proposed by KIUC for use in this rate case may also be generally expressed as the following equation:¹⁵

$$DSC\ Ratio = \frac{(x-y+z+i+d)}{(i+p)}, \text{ where:}$$

- x = Revenues
- y = Expenses
- z = Loss from Subsidiaries
- i = Interest Expense
- d = Depreciation and Amortization Expense
- p = Principal Payment

¹⁴Application, Exhibit 10-T-300 at 24.

¹⁵See Order No. 40144 at 30; and Application, Exhibit 10-T-300 at 24. See also Application, Exhibit 6.

B.

Procedural Background

On December 28, 2022, KIUC filed its Application seeking the Commission's approval of an increase in the electric utility's revenues of \$16.7 million (approximately 9.42%) over its present total electric revenue requirement of \$177.0 million.¹⁶ The requested increase was based on an estimated total electric revenue requirement of \$193.7 million for the 2023 calendar year ("Test Year"), and a targeted DSC Ratio of 1.75.¹⁷

KIUC proposed to implement the increase in its overall total revenue requirement for the Test Year among its various customer classes through rate changes and increases set forth in Exhibit 5 of its Application (Comparison of Present and Proposed Rates) and as discussed in the testimony of Daniel Koehler (Exhibit 10-T-500).¹⁸

KIUC also proposed changes to its existing tariff ("KIUC Tariff No. 1") to effectuate the proposed rate changes and increases, and also proposed modifications to the Energy Rate Adjustment Clause ("ERAC").¹⁹ KIUC's proposed changes to

¹⁶Application at 9.

¹⁷Application at 9-10.

¹⁸Application at 10.

¹⁹Application at 10 n.21. See Application, Section V.B (Energy Rate Adjustment Clause (ERAC) Mechanism) and

KIUC Tariff No. 1 are set forth in Attachment DK-505 to the testimony of Daniel Kohler (Exhibit 10-T-500).²⁰

In addition, KIUC proposed implementation of depreciation rates and changes as described in a 2017 depreciation study prepared by NewGen Strategies and Solutions, LLC, and to “use those rates in determining and establishing KIUC’s revenue requirement, revenue increase, and resulting rates and charges in this proceeding.”²¹

KIUC also requests approval of various modifications to its existing ERAC mechanism.²² In particular, KIUC seeks to:

- (1) update and reflect the use of the 2023 test year for this rate proceeding, including the 2023 test year cost of fuel for KIUC generation and the 2023 test year cost of purchased energy;
- (2) adjust the generation conversion factor from 0.009850 million Btu per kilowatt hour to 0.009950 million Btu per kilowatt hour to account for KIUC’s current energy mix, which is now primarily renewable (or non-fuel) sources;
- (3) in light of the above generation conversion factor adjustment, revise the range from “0.00980 million Btu per kilowatt hour to 0.00990 million Btu per kilowatt hour” to “0.00990 million Btu per kilowatt hour to

Exhibit 10-T-900 (testimony of Brad Rockwell) (discussing KIUC’s proposed modifications to its existing ERAC mechanism and tariff revisions to effectuate the proposed revisions to the ERAC).

²⁰Application at 10 n.21.

²¹Application at 15. The depreciation study is discussed in the testimony of Nancy Heller Hughes (Exhibit 10-T-1100), and a copy of the depreciation study is provided in Attachment NHH-1102 thereto. Id.

²²Application at 15.

0.01000 million Btu per kilowatt hour"; and (4) adjust the system loss factor from 4.49% to 5.09% to better reflect the much higher level of distributed generation resources on KIUC's system today than at the time of KIUC's last rate case proceeding in Docket No. 2009-0050.²³

In addition, KIUC requests approval to recover the balance of its lost gross margins ("LGM") regulatory asset over a 10-year amortization period.²⁴ KIUC explains that this regulatory asset was created for the purpose of "record[ing] and accru[ing] [LGM] and increased bad debt expense associated with the COVID-19 pandemic, incurred from April 1, 2020 until ordered otherwise by the Commission."²⁵ The Commission approved use of deferred accounting to establish this regulatory asset in Decision and Order No. 37252, issued on July 31, 2020, in Docket No. 2020-0088 ("Decision and Order No. 37252"),²⁶ and the accrual of LGM was discontinued as of June 30, 2022, pursuant to Order No. 38605, issued in Docket No. 2020-0088 on September 13, 2022.²⁷ KIUC represents that the balance of the LGM regulatory asset is \$12.8 million.²⁸

²³Application at 15-16.

²⁴Application at 16-17.

²⁵Application at 16.

²⁶Application at 2 and 16.

²⁷Application at 16.

²⁸Application at 17.

KIUC also requests approval to recover, over a 10-year amortization period, the balance of the regulatory asset resulting from the pension tracking mechanism established by the Commission in Docket No. 2009-0050.²⁹ KIUC explains that in Docket No. 2009-0050, its only previous rate case, "the Commission approved KIUC's agreement to establish a pension tracking mechanism to record changes in costs beginning from January 2010 to create a regulatory asset to determine the future ratemaking treatment of any accumulated balances."³⁰ KIUC represents that the Test Year balance of the Pensions Regulatory Asset is \$9.5 million.³¹

In support of the proposed increase, KIUC explains that:

1. The increase in KIUC's revenues and rates is necessary to address flattened sales growth and increasing costs and investments since the time of KIUC's last general rate increase went into effect in 2010, as a result of Docket No. 2009-0050.³²

2. Under present rates, KIUC projects a negative net margin reported to its lenders of \$7.1 million for

²⁹Application at 3 and 17-18 (referring to the Commission's Decision and Order issued on September 9, 2010 in Docket No. 2009-0050).

³⁰Application at 17.

³¹Application at 17-18.

³²Application at 10.

the Test Year, resulting in a DSC Ratio of 0.98, "which is less than the 1.25 minimum DSC Ratio required under the [Indenture Arrangement]." ³³ Among various reasons for why KIUC must meet a minimum DSC Ratio of 1.25, KIUC explains that "if KIUC is not able to meet this minimum DSC Ratio, KIUC would be precluded from borrowing any new debt under the Indenture Arrangement until that deficiency has been removed for a full fiscal year." ³⁴

3. The revenue increase proposed by KIUC's Application would:

[P]rovide KIUC with sufficient revenues to fund and pay fixed and variable expenses when and as due, and provide sufficient margins that enable KIUC to meet lender debt coverage ratio requirements and expectations, and ensure that KIUC is able to continue to access long-term debt to fund planned and unplanned capital needs and for KIUC to continue to safely and reliably deliver its essential electric service to its customers/members and to meet various State requirements and initiatives. ³⁵

³³Application at 12. In his testimony, Mr. Collet explains that under the Indenture Arrangement, "the DSC Ratio is now the principal measure of loan covenant compliance." Application, Exhibit 10-T-300 (Testimony of William A. Collet) at 10.

³⁴Application at 12 (referencing Exhibits 10-T-200 (Testimony of Stacie A. Dellamano) and 10-T-300 (Testimony of William A. Collet)).

³⁵Application at 10-11.

Consistent with the Commission-approved regulatory schedule:³⁶ (1) on August 30, 2023, the Consumer Advocate and FOM filed their direct testimonies and exhibits; (2) on October 5, 2023, KIUC filed its rebuttal testimonies and exhibits; and (3) on November 3, 2023, the Parties jointly filed the Stipulation.

On November 17, 2023, FOM filed a letter stating that "following its review of the [Stipulation] and discussions that have occurred between FOM and KIUC, FOM hereby supports and/or does not oppose the relief requested in the [Stipulation][,]" provided that should the Commission decline to adopt the Stipulation, in whole or in part, FOM "reserves the right to pursue any and all of its earlier positions through negotiations and/or the right to request additional steps, additional filings and proceedings before the Commission."³⁷

³⁶See Procedural Order No. 40145, filed on August 7, 2023; and Order No. 40248, "Addressing: (1) Friends of Māhā'ulepu's Motion to Compel Responses to Information Requests and Request for Extension and (2) Parties' Joint Request to Modify Procedural Schedule," filed on September 12, 2023 ("Order No. 40248").

³⁷Letter From: R. Hurley and B. Isaki To: Commission Re: Docket No. 2022-0208 (In the Matter of the Application of Kauai Island Utility Cooperative For Approval of Rate Changes and Increases, Revised Rate Schedules and Rules, and Other Matters) - Friends of Maha'ulephu's ("FOM") Support of/No Opposition to Parties' Settlement Letter/Agreement and Statement of Probable Entitlement, filed on November 17, 2023.

C.

Public Hearing and Public Comments

On March 28, 2023, the Commission held a public hearing on KIUC's Application, pursuant to HRS §§ 269-12 and -16, at the King Kaumuali'i Elementary School Cafeteria, 4380 Hanamaulu Road, Lihue, Hawaii, 96766, at 6:00 p.m.³⁸ In addition to KIUC and the Consumer Advocate, fourteen individuals provided testimony, including on behalf of FOM.³⁹ Public comments have also been submitted throughout this proceeding.⁴⁰

II.

DISCUSSION

A.

HRS § 269-16(d)

Consistent with HRS § 269-16(d), the Commission shall make every effort to issue its decision nine months from the date a public utility files its completed application. If the

³⁸See Notice of Public Hearing; Docket No. 2022-0208, filed on March 6, 2023.

³⁹See Public Hearing Sign-Up Sheet and Written Testimonies (Lihue); Docket No. 2022-0208, filed on March 28, 2023.

⁴⁰See Docket No. 2022-0208, Public Comments filed on December 29, 2022; January 17, 2023; March 9, 2023; March 24, 2023; March 27, 2023; March 28, 2023; March 29, 2023; March 30, 2023; March 31, 2023; April 3, 2023; April 4, 2023; April 5, 2023; April 10, 2023; April 12, 2023; April 17, 2023; April 25, 2023; May 3, 2023; and June 5, 2023.

Commission does not issue its final decision by then, the Commission shall issue an interim decision within one month after the nine-month period expires, "allowing the increase in rates, fares and charges, if any, to which the Commission, based on the evidentiary record before it, believes the public utility is probably entitled."⁴¹ The Commission may postpone its interim decision for thirty days if the Commission considers the evidentiary hearing to be incomplete.

The interim decision may allow an increase in rates if the Commission believes the public utility is "probably entitled" to such interim relief.⁴² Moreover:

⁴¹HRS § 269-16(d).

⁴²See HRS § 269-16(d). Additionally, with respect to interim rate relief, the Commission has previously noted:

[O]ur decision in this docket should be consistent with precedent and that computational error committed by the parties should be accounted for. However, in deciding interim rate relief, the Commission's scrutiny of both the record and the discourse during the evidentiary hearings is a search for showing of probable entitlement. This search is necessarily quick, unlike the careful deliberation the Commission consistently accords issues in rendering final decisions. In deciding interim rate relief, the Commission must often postpone determinations of reasonableness with respect to certain unresolved matters. Otherwise, the speed with which [the public utility] is given interim rate relief would be affected.

Docket No. 04-0113, Interim Decision and Order No. 22050, filed on September 27, 2005, at 5-6 n.7 (quoting Docket No. 6998, Interim Decision and Order No. 11559, filed on March 31, 1992, at 7).

In the event interim rates are made effective, the [C]ommission shall require by order the public utility to return, in the form of an adjustment to rates, fares, or charges to be billed in the future, any amounts with interest, at a rate equal to the rate of return on the public utility's rate base found to be reasonable by the [C]ommission, received under the interim rates that are in excess of the rates, fares, or charges finally determined to be just and reasonable by the [C]ommission. Interest on any excess shall commence as of the date that any rate, fare, or charge goes into effect that results in the excess and shall continue to accrue on the balance of the excess until returned.⁴³

In this proceeding, the Parties stipulated to and proposed a modification to the procedural schedule that contemplated an interim decision and order by November 27, 2023, which is beyond October 27, 2023, the 10-month deadline contemplated under HRS § 269-16(d).⁴⁴ By Order No. 40248, the Commission construed the Parties' Joint Letter as a voluntary waiver of an interim decision and order within a 10-month period (i.e., by October 27, 2023) and a stipulation for an interim

⁴³HRS § 269-16(d).

⁴⁴See Joint Letter From: Consumer Advocate and K. Morihara To: Commission Re: Docket No. 2022-0208 (In the Matter of the Application of Kauai Island Utility Cooperative For Approval of Rate Changes and Increases, Revised Rate Schedules and Rules, and Other Matters) - Request to Modify Procedural Schedule, filed on August 30, 2023 ("Parties' Joint Letter").

decision and order by November 27, 2023.⁴⁵ The Commission issues this Interim Decision and Order consistent with Order No. 40248.

B.

Act 57, Session Laws of Hawaii 2013 and HRS § 269-31

Since the completion of Docket No. 2009-0050 and the issuance of the September 9, 2010 Decision and Order in that docket, the Hawaii State Legislature enacted HRS § 269-31, which requires that “the [Commission] and the [C]onsumer [A]dvocate shall at all times consider the ownership structure and interests of an electric cooperative in determining the scope and need for any regulatory oversight or requirements over such electric cooperative.”⁴⁶ In doing so, the legislature acknowledged that

⁴⁵See Order No. 40248 at 40-42 (granting the Parties’ request to modify the procedural schedule, subject to certain modifications discussed therein).

⁴⁶HRS § 269-31 states:

(c) For purposes of [HRS Chapter 269], an “electric cooperative” is a cooperative association or entity that is:

- (1) Owned by its members;
- (2) Formed pursuant to chapter 421C;
- (3) Operated on a not-for-profit basis;
- (4) Authorized pursuant to a legislatively granted franchise or other legislative authority to manufacture, sell, furnish, and supply electric light, electric current, or electric power to its members or a designated service area; and

(5) Governed by a board of directors who are members of the electric cooperative and who are

electric cooperatives such as KIUC "are fundamentally distinct from traditional electric utilities in terms of both governance and organizational purpose" and that "the nature of electric cooperatives provides multiple safeguards that ensure that the everyday user receiving electricity services has a say in determining whether that cooperative functions in the interests of both the organization and the individual consumers."⁴⁷

C.

Statement of the Issues

As set forth in Order No. 40144, the issues in this proceeding are:⁴⁸

1. Are KIUC's proposed rates and charges just and reasonable, including, but not limited to:
 - a. Are the revenue estimates for the Test Year at present rates and proposed rates reasonable?
 - b. Are KIUC's proposed expenses for the Test Year reasonable?
 - c. Is KIUC's rate base for the Test Year reasonable, and are the projects included in rate base used and useful for public utility purposes?

democratically elected by members of the electric cooperative pursuant to applicable bylaws.

⁴⁷2013 Haw. Sess. Laws Act 57, § 1 at 99-100.

⁴⁸Order No. 40144 at 84-85; see also Procedural Order No. 40145.

- d. Is KIUC's proposed rate design reasonable?
2. Are the depreciation rates and changes proposed by KIUC to be used in determining and establishing KIUC's revenue requirement, revenue increase, and resulting rates and charges in this proceeding reasonable?
3. Are the proposed modifications to KIUC's [ERAC] mechanism reasonable?
4. Is the recovery of the [LGM] regulatory asset established by Decision and Order No. 37252 (issued on July 31, 2020, in Docket No. 2020-0088), over a 10-year amortization period, reasonable?
5. Is the recovery of the balance of the regulatory asset resulting from the pension tracking mechanism established by the September 9, 2010 Decision and Order issued in Docket No. 2009-0050, over a 10-year amortization period, reasonable?
6. Should the Commission grant KIUC other and further relief?

D.

Interim Rate Relief

The Parties, as part of the Stipulation, state:

a. The Parties stipulate and agree that the existing evidentiary record is sufficient to grant KIUC interim rate relief, pursuant to HRS § 269-16(d).

b. The Parties recognize that, in order for the Commission to grant interim relief, pursuant to HRS § 269-16(d), the Commission must believe that KIUC is "probably entitled" to an increase in its rates based on the existing evidentiary record.

c. The Parties stipulate and agree that based on the existing evidentiary record, the probable entitlement standard has been met to justify KIUC being granted an increase in its rates as provided in **Exhibit 2** attached [to the Stipulation].

d. The Parties stipulate and agree that the Commission should allow KIUC to increase its rates, on an interim and final basis, to such levels as will produce, in the aggregate, \$14.037 million in additional [Test Year] revenues^[49], resulting in a total revenue requirement amount of \$190.575 million and an approximate 7.95% increase over the pro forma electric revenue [Test Year] amount of \$176.54 million at present rates.

e. Based on the above and the information contained in **Exhibit 1** attached [to the Stipulation], the Parties request that the stipulated rates and charges set forth in **Exhibit 2** attached hereto be approved and established, on an interim and final basis.⁵⁰

⁴⁹Specifically, \$14.037 million net increase in electric sales revenues. See Stipulation, Exhibit 1 at 1 (Schedule SS-Summary), line 1.

⁵⁰Stipulation at 28 (bold and underlining in original). The Parties stipulated to these items "for purposes of the Commission granting interim rate relief to KIUC through an Interim Decision and Order issued by Monday, November 27, 2023 as set forth in Order No. 40248, should the Commission need additional time to issue a final decision and order establishing final rates[.]" Id.

Regarding the Parties' references in the Stipulation to the test year revenue amount or "total revenue requirement" as being \$190.575 million, the Commission notes that this \$190.575 million amount reflects the electric sales revenue amount at the Parties' stipulated proposed rates, rather than total revenues (including Other Revenue). See Stipulation, Exhibit 1 at 1 (Schedule SS-Summary, page 1) at line 1, Column E (\$190.575 million - Electric Revenue) and line 3, Column E (\$190.175 million - Total Revenue). In this Interim Decision and Order, the Commission understands the Parties' reference to "revenue requirement" to

The Parties state that “[they] have, in principle, resolved all of their differences and have reached a global settlement on their previously filed areas of disagreement or dispute” in this rate case proceeding.⁵¹ In particular, the Commission notes that the Consumer Advocate “generally agreed that the DSC methodology should be used for calculating KIUC’s revenue requirement in the subject rate case proceeding.”⁵²

In regards to the Parties’ documents supporting their positions, the Commission notes that KIUC’s Rebuttal Testimonies (“KIUC’s Rebuttal Testimonies”) utilized the format used by the Consumer Advocate in its Direct Testimonies, Exhibits, and Workpapers (“Consumer Advocate’s Direct Testimonies”) to present its rebuttals to the Consumer Advocate’s proposed revenue requirement and revenue increases. The Commission further notes that the Parties utilized this format in presenting the revenue requirement and revenue increase resulting from their Stipulation; namely, “Attachment RT-201 [to KIUC’s Rebuttal Testimonies] follows the presentation that the Consumer Advocate used in its

mean “revenues to be collected from customers,” and thus notes in various places that the Parties’ stipulated revenue requirement reflects only the electric sales/revenue amount, in contrast to the “revenue requirement” amount that is more commonly understood to reflect the sum of Expenses + Depreciation + Taxes + Return.

⁵¹Stipulation at 1.

⁵²Stipulation at 18.

Exhibit CA-201[,]" and Exhibit 1 to the Parties' Stipulation "shows the revenue requirement and revenue increase resulting from this Stipulation, which uses the same overall presentation that the Consumer Advocate used in Exhibit CA-201 of its Direct Testimonies and that KIUC used in Attachment RT-201 of its Rebuttal Testimonies[.]"⁵³ The only modification between Exhibit 1 to the Stipulation and the format used in the Consumer Advocate's Exhibit CA-201 and KIUC's Attachment RT-201 is that Exhibit 1 to the Stipulation "add[s] a Summary Schedule on the first page (Schedule SS-Summary) for ease of reference."⁵⁴

In reaching the Stipulation and related agreement on probable entitlement, the Parties stipulated to revenue amounts (electric and other) at present rates, as well as operating and maintenance expense amounts at present rates (power supply, transmission and distribution, member services, communications, energy services, human resources, executive, safety and facilities, regulatory affairs, engineering, financial & corporate services, information technology, depreciation and amortization, and taxes other than income taxes). These stipulated amounts result in a net margin amount of negative \$1.467 million at

⁵³Stipulation at 3.

⁵⁴Stipulation at 3.

present rates,⁵⁵ and a Regulatory Indenture DSC Ratio of 1.06 at present rates.⁵⁶

For settlement purposes, the Parties stipulated to using a DSC Ratio of 1.695 to calculate KIUC's revenue requirement for this proceeding.⁵⁷

⁵⁵Stipulation at 19. Specifically:

Total Revenues	\$176,138,000
- Total Expenses	<u>-\$170,284,000</u>
	\$5,854,000
- Other Income and Expenses	<u>-\$7,321,000</u>
Net Margin/Present Rates	<u>-\$1,467,000</u>

⁵⁶See Stipulation Exhibit 1 at 1 (Schedule SS-Summary, page 1). Specifically:

Net Margins	- \$1,467,000
Add back Loss from Subsidiaries	\$1,501,000
Add back Long Term Interest	\$6,730,000
Depreciation & Amortization	<u>\$14,333,000</u>
Adjusted Margins (Numerator)	<u>\$21,097,000</u>

Long Term Interest	\$6,730,000
Long Term Principal	<u>\$13,254,000</u>
Total Debt Service (Denominator)	<u>\$19,984,000</u>
Debt Service Coverage Ratio	1.055 (rounded)

Cf. Exhibit 10-T-300 at 24 (illustrating KIUC's DSC Ratio for the fiscal year ending December 31, 2021).

⁵⁷Stipulation at 18-19. See Exhibit 1, Schedule SS-Summary (line 48, Column D). Specifically:

Net Margins	\$11,309,000
Add back Loss from Subsidiaries	\$1,501,000
Add back Long Term Interest	\$6,730,000
Depreciation & Amortization	<u>\$14,333,000</u>
Adjusted Margins (Numerator)	<u>\$33,873,000</u>

Long Term Interest	\$6,730,000
Long Term Principal	<u>\$13,254,000</u>
Total Debt Service (Denominator)	<u>\$19,984,000</u>
Debt Service Coverage Ratio	1.695 (rounded)

The Parties stipulated to a net increase in electric sales revenues of \$14.037 million, resulting in a revenue requirement of \$190.575 million for electric sales revenues and an approximately 7.95% increase over the pro forma electric sales revenue Test Year amount of approximately \$176.54 million at present rates.⁵⁸

The Parties' calculations and supporting basis for each of their agreed-upon components are set forth in Exhibit 1 to the Stipulation. With respect to the Parties' agreements on specific issues, including adjustments of certain revenue and expense amounts at present rates, the Parties state as follows:

Depreciation Expense. The Parties state that "under the agreed upon use of the [DSC] Ratio, adjustments to the [Test Year] depreciation expense have no impact on KIUC's requested revenue requirement or revenue increase."⁵⁹ The Parties agree that:

- (1) KIUC will focus on having NewGen complete the next depreciation study based on KIUC's plant-in-service as of December 31, 2022;⁶⁰
- (2) KIUC will submit the depreciation study in a Commission

⁵⁸Stipulation at 3-4 (as noted above, this figure does not include "Other Revenue," and only reflects revenues from electric sales).

⁵⁹Stipulation at 5.

⁶⁰Stipulation at 5.

proceeding prior to seeking RUS approval;⁶¹ and (3) KIUC will not adopt new/changed depreciation rates in this proceeding, but rather will continue to use the depreciation rates that the Commission approved in Docket No. 2015-0127 "until such time that new or changed depreciation rates can be approved and implemented in connection with the next depreciation study that NewGen is preparing based on KIUC's plant-in-service as of December 31, 2022."⁶²

Vacancies/Unfilled Positions, Payroll Tax, and Employee Benefit Expenses: The Parties stipulated to adjustments in KIUC's vacancy level/number of unfilled positions, which resulted in adjustments for Test Year O&M labor expenses, payroll taxes, and employee benefits.⁶³ Specifically, the Parties stipulated to a vacancy adjustment of nine (9) full-time equivalents ("FTEs"), resulting in KIUC's Test Year labor cost being based on 134 FTEs, instead of on 143 FTEs as proposed in the Application.⁶⁴

Vegetation Management: The Parties agreed to making no adjustment to KIUC's Test Year vegetation management expense of

⁶¹Stipulation at 5.

⁶²Stipulation at 6.

⁶³Stipulation at 7. See also Stipulation, Exhibit 1 at 3 (Schedule SS-B-1, lines 3, 6 and 7), 11 (Schedule SS-C-2), 15 (Schedule SS-C-5), and 16 (Schedule SS-C-6).

⁶⁴Stipulation at 7.

\$1,891,800 in exchange for KIUC filing an annual Vegetation Management Report as suggested by the Consumer Advocate.⁶⁵

Christmas Party/Other Non-Essential Expenses:

The Parties stipulated to the removal of \$38,500 from KIUC's Test Year revenue requirement for amounts budgeted for the Christmas Party, Community Participation Event, CAK Home Show, County Farm Bureau Fair, and Waimea and Rice St. Light Parade.⁶⁶

Recovery of Pension Regulatory Asset: The Parties stipulated to a 20-year amortization period for the recovery of the pension regulatory asset, "which results in a [Test Year] amortization amount of \$476,000 for the pension regulatory asset instead of the \$952,000 amount included as part of KIUC's Application."⁶⁷ Relatedly, the Parties state that they stipulated to the following provisions and request Commission approval and incorporation of the following into its decisions for this docket:

- Annual Report. As a condition to accepting this 20-year amortization, the Consumer Advocate proposed, and KIUC agreed, that KIUC would provide an annual report on the

⁶⁵Stipulation at 8.

⁶⁶Stipulation at 9. See also Stipulation, Exhibit 1 at 3 (Schedule SS-B-1 (line 5)) and 14 (Schedule SS-C-4). The \$38,500 amount is rounded to \$39,000 in the SS Schedules.

⁶⁷Stipulation at 11. See also Stipulation, Exhibit 1 at 17 (Schedule SS-C-7). The Parties also note that "the \$476,000 amount reflects the gross annual amortization." Stipulation at 11 n.7. Also, a portion of the pension regulatory asset amortization, \$384,000, is reflected as an operating expense and is reflected in the revenue requirement. See Stipulation at 11 n.7.

current balance of the pension asset/liability that reflects both the tracked difference between the actuary reported net periodic pension cost and the amount included in base rates and the cumulative amount recovered through the inclusion of the 20-year amortization in base rates. This report will be filed by May 1 of each calendar year starting on May 1, 2024; provided that KIUC shall have the option to instead include this information as part of its annual financial report filed with the Commission by March 31 of each year.

- Update of Pension Tracking Mechanism. Consistent with the information to be submitted in the annual report, the pension tracking mechanism established in Docket No. 2009-0050 should be updated to reflect the 2023 TY pension expense of \$3.84 million (instead of the \$2.64 million 2010 test year pension expense resulting from the Docket No. 2009-0050 revenue requirement), with the ratemaking treatment of any resulting accrued asset or liability to be determined as part of KIUC's next general rate proceeding. . . .⁶⁸

Recovery of LGM Regulatory Asset: Parties stipulate to a 15-year amortization period for the recovery of the LGM regulatory asset (rather than a 10-year amortization period as proposed in the Application), which "result[s] in a stipulated \$426,000 reduction in the [Test Year] amortization amount (i.e., from \$1.278 million as set forth in the Application to the \$852,000 amount reflected in the Consumer Advocate's

⁶⁸Stipulation at 11-12.

Direct Testimonies)."⁶⁹ Relatedly, the Parties also stipulated to the additional terms:⁷⁰

- Above 1.695 DSC Ratio. To the extent KIUC achieves a DSC in excess of the 1.695 DSC Ratio stipulated to in Section II.H (DSC Ratio Adjustment) in a given year, it would apply any excess remaining toward LGM regulatory asset recovery.
- Annual Report. KIUC will provide an annual report on the current balance of the LGM regulatory asset that reflects the cumulative amount recovered through the inclusion of the 15-year amortization in base rates, as well as any excess amounts above the 1.695 DSC Ratio that were applied toward LGM regulatory asset recovery. This report will be filed by May 1 of each calendar year starting on May 1, 2024, and KIUC may combine this report with the annual pension report or its annual financial report as noted in Section II.E (Adjustment C-7 -Recovery of Pension Regulatory Asset)

Fuel and Purchased Power Expense/ERAC: The Parties stipulated to specific sub-items as follows:

- Test Year Fuel and Purchased Power Expense: the Parties agreed to making no adjustments to this expense, because "the Consumer Advocate agreed to remove its proposed adjustments that would have resulted in a net increase to KIUC's [Test Year] fuel and purchased power

⁶⁹Stipulation at 12. See Stipulation, Exhibit 1 at 18 (Schedule SS-C-8).

⁷⁰Stipulation at 13 (underlines in original).

expense of \$707,000, and as such, the Parties have stipulated to a [Test Year] fuel expense of \$43,518,000 and purchased power expense of \$47,595,000”⁷¹

- Generation Conversion Factor/Sales Heat Rate: KIUC accepted the Consumer Advocate’s proposed 9,750 Btu/kWh conversion factor/sales heat rate.⁷² Furthermore, the Parties agreed to remove the +/- 0.000050 million Btu per kWh range in KIUC’s ERAC, “such that KIUC would no longer have the ability to elect to recover only its actual fuel generation costs if it operated during any given month either below or above the range of 0.00980 million Btu per kWh to 0.00990 million Btu per kWh.”⁷³

⁷¹Stipulation at 14. Cf. Stipulation, Exhibit 1 at 1 (Schedule SS-Summary (column E, lines 4 and 5)).

⁷²Stipulation at 15. The Stipulation notes that this 9,750 Btu/kWh generation conversion factor/sales heat rate “is slightly lower than the 3-year average of KIUC’s heat rate since the synchronous condenser feature was added to Kapaia Power Station . . . in late 2019[.]” Id.

⁷³Stipulation at 16. “[T]he Parties acknowledge that KIUC has never exercised this election.” Id.

The Commission also notes Parties’ representations that, during settlement discussions, the Consumer Advocate agreed to remove the adjustment mechanism it had proposed in its Direct Testimonies, whereby “the efficiency factor used to calculate the Composite Cost of Generation in the ERAC and the generation conversion factor included in KIUC’s tariff to calculate current generation cost [would] be adjusted downward by one-half of the

- ECA Factor at Current Rates: KIUC did not object to the Consumer Advocate's recommended Test Year Energy Cost Adjustment ("ECA") factor at current rates of \$0.03547 per kWh.⁷⁴
- Fuel Oil Inventory: For settlement purposes, KIUC accepted the Consumer Advocate's proposed Test Year fuel oil inventory amount of \$1,100,055, reflecting a downward adjustment of \$834,390 to KIUC's Test Year estimate of \$1,935,345.⁷⁵ The Parties note that this adjustment "does not impact the ratemaking revenue requirement under the DSC methodology."⁷⁶

difference between the prior year's actual efficiency factor and the target efficiency factor." Stipulation at 16 (citing "Division of Consumer Advocacy's Direct Testimonies, Exhibits, and Workpapers," CA-T-3 ("CA-T-___"), filed on August 30, 2023, at 47-49).

⁷⁴Stipulation at 17. The Parties state that "the [Test Year] ECA factor at current rates will not impact what KIUC ratepayers will pay in any given month, since the effective KIUC rates will reflect the actual fuel and purchased energy prices in effect for that month through ERAC." Id. (referencing Letter From: K. Morihara To: Commission Re: Docket No. 2022-0208 (In the Matter of the Application of Kauai Island Utility Cooperative For Approval of Rate Changes and Increases, Revised Rate Schedules and Rules, and Other Matters) - "Kauai Island Utility Cooperative's Rebuttal Testimonies to Division of Consumer Advocacy's Direct Testimonies, Exhibits, and Workpapers" ("KIUC RT-___"), filed on October 5, 2023, KIUC RT-900 at 24).

⁷⁵Stipulation at 17.

⁷⁶Stipulation at 17 n.13.

- ERAC Mechanism/Tariff Cost of Fuel and Purchased Energy:

The Parties stipulated to modifications in the ERAC mechanism and tariff such that:

(1) the reference in KIUC's ERAC mechanism/tariff should be updated from "1735.83 cents per million Btu" to "2332.22 cents per million Btu" (instead of the "2301.98 cents per million Btu" proposed by KIUC in the Application) to reflect the 2023 [Test Year] cost of fuel for KIUC generation that was based on Mr. Shepherd's production simulation analyses; and (2) the reference in KIUC's ERAC mechanism/tariff should be updated from "17.381 cents per kilowatt hour" to "17.559 cents per kilowatt hour" (instead of the "17.443 cents per kilowatt hour" proposed by KIUC in the Application) to reflect the 2023 [Test Year] cost of Purchased Energy that was based on Mr. Shepherd's production simulation analyses."⁷⁷

DLNR Rent Adjustment/Waiahi Hydro Plants: In their Stipulation, the Parties also note that, as part of KIUC's Rebuttal Testimonies, KIUC made a downward adjustment of \$54,000 to the revenue requirement, reflecting the cost for rent to the Board of Land and Natural Resources ("BLNR") related to the Waiahi hydro plants.⁷⁸ Regarding this downward adjustment, the Parties explain that:

Although the Consumer Advocate['s] Direct Testimonies did not recommend any adjustment to this amount, KIUC removed this \$54,000 amount in the calculation of the revenue requirement set

⁷⁷Stipulation at 18 (referencing CA-T-3 at 33-35, KIUC RT-900 at 27). See also Stipulation, Exhibit 4 (reflecting the stipulated tariff provisions).

⁷⁸Stipulation at 22.

forth in the KIUC Rebuttal Testimonies because the revocable permit has not yet been renewed and is not expected to be renewed in the [Test Year][.]⁷⁹

The Commission, as part of its final decision-making, intends to more closely review these and all other amounts to which the Parties agreed.

The Commission independently reviewed the calculations and stipulated amounts set forth in the Parties' Stipulation, including the Parties' Statement of Probable Entitlement. For purposes of this Interim Decision and Order, the Commission accepts the agreements and calculations memorialized by the Parties in their Stipulation and Statement of Probable Entitlement.⁸⁰ Based on the docket record, it appears that

⁷⁹Stipulation at 22 (referencing KIUC RT-200 at 36 and "Kauai Island Utility Cooperative's Responses to Participant Friends of Maha'uiepu's Submission of Rebuttal Information Requests to Applicant Kauai Island Utility Cooperative (FOM IR-32 to FOM IR-40); Attachment 1; and Certificate of Service," KIUC Response to FOM IR-32, filed on October 23, 2023. See also Stipulation, Exhibit 1 at 3 (Schedule SS-B-1, line 11) and 20 (Schedule SS-C-10).

⁸⁰Cf. Docket No. 2008-0081, Interim Decision and Order, filed on June 2, 2009 (where the parties agreed, the Commission accepted the parties' agreement for purposes of interim rate relief); Docket No. 2006-0409, Interim Decision and Order No. 23925, filed on December 21, 2007, at 13 (where the parties agreed, the Commission accepted such agreement for purposes of interim rate relief); Docket No. 2006-0386, Interim Decision and Order No. 23749, filed on October 22, 2007, at 10 (where the parties agreed, the Commission accepted such agreement for purposes of interim rate relief); Docket No. 05-0315, Interim Decision and Order No. 23342, filed on April 4, 2007, at 10

the interim rate relief granted meets KIUC's need for immediate rate relief and protects the interests of the electric utility's ratepayers.

For the purpose of setting interim rates, the Commission observes that the approved revenue requirement results in a DSC Ratio that: (1) meets the 1.25 minimum DSC Ratio required under the Indenture Arrangement, as noted above;⁸¹ and (2) is comparable to the DSC Ratios of peer cooperatives. Specifically, the Commission notes that resulting DSC Ratio of 1.695 is low compared to those of peer cooperatives, as summarized below⁸²:

(where the parties agreed, the Commission accepted such agreement for purposes of interim rate relief); and Docket No. 04-0113, Interim Decision and Order No. 22050, filed on September 27, 2005, at 7 (where the parties agreed, the Commission accepted such agreement for purposes of interim rate relief).

⁸¹See Notice of Consummation of Indenture Arrangement, Exhibit 3 at 15, Exhibit 4 at 29, Exhibit 5 at 30, and Exhibit 6 at 27 (KIUC's agreements with CFC requires that KIUC "achieve an Average DSC Ratio of not less than 1.25:1.00").

⁸²Stipulation at 19 (citing KIUC RT-300 at 9). The "Hybrid Peer Group" consists of "approximately 40 electric distribution cooperatives including KIUC with total utility plant in excess of \$250 million and no affiliation with a cooperative [generation and transmission ('G&T') association[.]" KIUC RT-300 at 9 (referencing Application, Exhibit 10-T-300 at 27-28). The "Directly Comparable" peer group consists of "the 10 largest electric cooperatives (including KIUC) that generate their own power and operate in a very similar manner to KIUC, encompassing generation, transmission, and distribution operations and asset bases[.]" Stipulation at 19 (referencing Application, Exhibit 10-T-300 at 28).

TABLE 1									2018 - 2022
Number of Entities	DSC	2017	2018	2019	2020	2021	2022	5 Year Average DSC	
812	Industry	2.04	2.14	2.11	2.13	2.23	2.04	2.13	
40	Hybrid Peer Group - Median	2.20	2.41	2.28	2.39	2.55	2.19	2.38	
10	Directly Comparable - Median	1.78	1.89	1.88	1.77	1.70	1.88	1.74	

The Commission also notes that the Parties' stipulated 1.695 DSC Ratio is approximately midway between KIUC's proposed 1.75 DSC Ratio and the Consumer Advocate's recommended DSC Ratio of 1.65.⁸³

The Commission's final decision may reflect further review and analysis of all work papers, schedules, and other materials.

E.

Interim Rate Design

With respect to rate design and revenue distribution adjustments, the Parties reached agreement on various rate design matters, as follows.

First, the Parties note that during settlement discussions, they addressed and resolved an issue raised by the

⁸³See Stipulation at 18; Application at 10; CA-T-2 at 48-67. The Commission also notes KIUC's witness' testimony that KIUC's requested DSC Ratio and resulting net margin are below what would otherwise be justified when taking into account the financial performance of KIUC's industry peers. Application, Exhibit 10-T-300 at 40.

Consumer Advocate in its Direct Testimonies that KIUC did not address in its Rebuttal Testimony, namely, KIUC's proposal to recover its proposed 9.42% increase to its Test Year revenue requirement on a customer bill basis.⁸⁴ The Parties explain that:

[A]lthough [the Consumer Advocate] agreed that "a similar approach" that KIUC used should be utilized to allocate the revenue increase . . . , there was a concern that the lower energy usage customers in, for example, the residential customer class (Schedule D) would experience a higher percentage increase than the higher usage customers in that class. Following discussions by the Parties, and in recognition that certain customers during the public hearing raised similar concerns, the Consumer Advocate proposed that the revenue increase be allocated more ratably within the customer tariff schedules.

As a result of the Parties' discussions, they stipulated to the rate design provided in Exhibit 2 to the Stipulation, which the Commission incorporates here by reference.⁸⁵ The Parties assert that, "[a]s demonstrated in **Exhibit 3** attached [to the Stipulation], this rate design results in a more ratable approach, where for example the percentage increase is spread evenly within the Schedule D (Residential) customer class."⁸⁶

⁸⁴Stipulation at 20-21.

⁸⁵Stipulation at 21 (bold and underline in original).

⁸⁶Stipulation at 21 (bold and underline in original).

Additionally, the Parties stipulated to reducing the monthly charge for residential customers to \$11.42, rather than the \$13.50 amount that KIUC proposed in the Application.⁸⁷

The Parties also stipulated to combine the "L" and "P" Rate Classes into a combined Schedule "LP", as KIUC proposed in the Application.⁸⁸

After the Parties agreed to the various adjustments and the resulting revenue requirement as discussed above, including matters related to rate design, they reached agreement on the revenue allocation and rate design that would produce the stipulated Test Year electric sales revenue requirement of \$190.575 million.⁸⁹

The Parties' stipulated rate design and corresponding tariff revisions are set forth in Exhibits 2-4 to their Stipulation. Specifically, Exhibit 2 provides the Parties' stipulated rates and charges, in comparison to KIUC's present rates; Exhibit 3 provides a bill impact analysis of the Parties' proposed stipulated rates, which reflect (among other things) the Parties' agreement to "more ratably spread the revenue increase within the applicable rate schedule tariffs"; and Exhibit 4

⁸⁷Stipulation at 21.

⁸⁸Stipulation at 22.

⁸⁹Stipulation at 22-23.

sets forth the proposed stipulated revisions to KIUC Tariff No. 1 reflecting the Parties' stipulated changes and agreements (including stipulated rates and charges set forth in Exhibits 2 and 3, and ERAC tariff revisions).⁹⁰

The Parties furthermore note that they have stipulated to this rate design "for both final rate purposes (to be reflected in the Commission's final decision and order in this proceeding) and, to the extent the Commission needs additional time to review the record and complete its deliberations before issuing its final decision and order, for interim rate purposes."⁹¹

For purposes of interim rate relief, the Commission accepts the Parties' approach to implementing the interim changes in KIUC's electric utility rates. The Parties shall file revised tariff sheets which implement the decisions made by the Commission in this Interim Decision and Order and reflect updated effective dates.

F.

Refund

As required by HRS § 269-16(d), KIUC will be required to refund to its customers any excess collected under this

⁹⁰Stipulation at 22-23.

⁹¹Stipulation at 23.

Interim Decision and Order, together with such interest as provided for by HRS § 269-16(d), if the final increase approved by the Commission is less than the total interim increase granted by this Interim Decision and Order.

III.

OTHER MATTERS

A.

Procedural Matters

The Parties, in their Stipulation, requested that the Commission remove the evidentiary hearing from the schedule. Namely, the Parties state:

Given that there are no remaining disputed issues between the Parties, the Parties have agreed that an evidentiary hearing is not needed. An evidentiary hearing is not in the public interest under the circumstances and would be contrary to the Commission's responsibility to ensure "the just, speedy and inexpensive determination of every proceeding" due to the Parties' settlement and the extensive time, resources and expenses that would be incurred to prepare for, attend, and participate in a hearing in which there are no disputed issues between the Parties. Accordingly, the Parties respectfully request that the procedural steps set forth in Order No. 40248 that currently have "TBD" placeholders for a Prehearing Conference, Evidentiary Hearing, and Post-Hearing Briefs and Reply Briefs be removed and deleted in their entirety.⁹²

⁹²Stipulation at 27 (citations omitted).

As noted above, the Commission is accepting the Parties' Stipulation for purposes of this Interim Decision and Order, but the Commission intends to investigate certain issues further, for which an evidentiary hearing may be necessary. In light of the remaining considerations and review needed, the Commission finds it prudent to retain the evidentiary hearing on the schedule. Thus, the Commission, at this time, denies the Parties' request without prejudice.

B.

Reporting Requirements

As noted above, the Parties' agreements include imposition of various proposed reporting requirements. The Commission's final decision and order will include its determinations about these proposed reporting requirements.

The Commission clarifies that any existing reporting requirements⁹³ will remain in effect, unless and until determined otherwise.

⁹³For example, reporting information currently being filed in Docket No. 2009-0050.

IV.

SUMMARY OF FINDINGS AND CONCLUSIONS

The Commission makes the following findings of fact and conclusions of law:

1. HRS § 269-16(d) mandates that the Commission make every effort to complete its deliberations and issue a final decision in public utility rate cases within nine months after a completed application has been filed by a utility. If such deliberations are not concluded within the nine-month period, the Commission shall render an interim decision within one month after the expiration of the nine-month period. The interim decision may be postponed an additional thirty days if the Commission considers the evidentiary hearings incomplete.

2. The Parties stipulated to a deadline for an Interim Order by November 27, 2023, and the Commission accepted their stipulated deadline in Order No. 40248.⁹⁴ This Interim Decision and Order is issued consistent with Order No. 40248.

⁹⁴Order No. 40248 at 41-42. The Commission noted therein that:

[B]oth Parties, i.e., KIUC and the Consumer Advocate, have stipulated to this modified deadline. Moreover, it is KIUC, as the utility seeking a rate increase, that has the predominant interest in resolving its request for a rate increase in a timely manner. Thus, the Commission construes the Parties' Joint Letter as a voluntary waiver of an interim decision and order within a

3. Pursuant to HRS § 269-16(d), the Commission may grant an interim increase, subject to refund and interest, pending a final decision, if the Commission believes that the public utility is probably entitled to an increase in its rates.

4. Based on the docket record before the Commission, including the Parties' Stipulation and their Statement of Probable Entitlement therein, KIUC is probably entitled to an interim increase in its revenues. Specifically, KIUC is probably entitled to an interim increase in electric revenues of \$14.037 million or approximately 7.95% over revenues at current effective rates, based on a 2023 Test Year revenue requirement of \$190.575 million in electric sales revenues.

5. Without interim rate relief, KIUC may be denied the opportunity to earn a sufficient level of revenues that would allow it to fund its operations, meet its debt coverage obligations to its lenders, and achieve the benchmarks needed to access long-term debt.

10-month period (i.e., by October 27, 2023) and a stipulation for an interim decision and order by November 27, 2023.

Id.

6. The Commission will continue to examine the pertinent issues in this docket, as noted above, and will issue a final decision addressing KIUC's application for rate relief subsequent to this Interim Decision and Order.

V.

ORDERS

THE COMMISSION ORDERS:

1. The Commission approves interim rate relief for KIUC, as set forth in the Parties' Stipulation and their Statement of Probable Entitlement therein.

2. By December 11, 2023, the Parties shall file revised tariff sheets which implement the decisions made by the Commission in this Interim Decision and Order. The revised tariff sheets shall not take effect without the Commission's affirmative approval.

3. Upon the issuance of the final decision and order in this proceeding, any amount collected pursuant to this interim rate increase that is in excess of the final rate determined to be just and reasonable shall be refunded to KIUC's ratepayers, together with interest as provided in HRS § 269-16(d).

4. The failure to comply with the requirement set forth in Ordering Paragraph No. 2, above, may constitute cause to

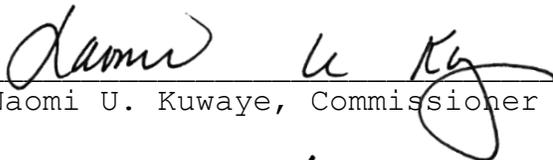
deny or reduce the interim rate increase authorized by this Interim Decision and Order.

DONE at Honolulu, Hawaii NOVEMBER 27, 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:



Ashley L. Agcaoili
Commission Counsel

2022-0208.ljk

CERTIFICATE OF SERVICE

The foregoing Interim Decision and Order was served on the date it was uploaded to the Public Utilities Commission's Case and Document Management System and served through the Case and Document Management System's electronic Distribution List.

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