

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
 )  
PUBLIC UTILITIES COMMISSION ) DOCKET NO. 2018-0088  
 )  
Instituting a Proceeding To )  
Investigate Performance-Based )  
Regulation. )  
\_\_\_\_\_ )

ORDER NO. 37865

APPROVING THE HAWAIIAN ELECTRIC COMPANIES' PILOT PROCESS

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APPROVING THE HAWAIIAN ELECTRIC COMPANIES' PILOT PROCESS

By this Order,<sup>1</sup> the Public Utilities Commission ("Commission") approves, subject to certain clarifications and modifications, Hawaiian Electric's proposed Pilot Process,

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<sup>1</sup>The Parties to this proceeding are HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), MAUI ELECTRIC COMPANY, LTD. ("MECO") (collectively, HECO, HELCO, and MECO are referred to as "Hawaiian Electric" or the "Companies") and the DIVISION OF CONSUMER ADVOCACY, an ex officio party, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 16-601-62(a). Additionally, the Commission has granted the following entities intervenor status: CITY AND COUNTY OF HONOLULU, COUNTY OF HAWAII, BLUE PLANET FOUNDATION, HAWAII PV COALITION, HAWAII SOLAR ENERGY ASSOCIATION, LIFE OF THE LAND, ULUPONO INITIATIVE, LLC, and DER COUNCIL OF HAWAII. Order No. 35542, "Admitting Intervenors and Participant and Establishing a Schedule of Proceedings," filed June 20, 2018. The Commission has also granted participant status to ADVANCED ENERGY ECONOMY INSTITUTE. Id.

The COUNTY OF MAUI was formerly an intervenor, but has since withdrawn from this proceeding. See Order No. 36252, "Granting the County of Maui's Motion to Withdraw," filed April 3, 2019.

filed April 30, 2021 ("Pilot Process").<sup>2</sup> The Commission's modifications, discussed herein, address some of the details and alternatives proposed by Hawaiian Electric to implement the pilot process framework originally established in Decision and Order No. 37507, filed December 23, 2020 ("D&O 37507").<sup>3</sup> Hawaiian Electric shall file a finalized version of the Pilot Process, consistent with this Order, by July 28, 2021.

I.

BACKGROUND

On December 23, 2020, the Commission issued D&O 37507, which approved a Performance-Based Regulation framework ("PBR Framework") to govern Hawaiian Electric. In pertinent part, the PBR Framework includes the Pilot Process, which is intended to "foster innovation by establishing an expedited implementation process for pilots that test new technologies, programs, business models, and other arrangements."<sup>4</sup>

D&O 37507 laid out a narrative framework for the Pilot Process, including its governance and approach, eligibility criteria, the specific process by which pilot

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<sup>2</sup>"Hawaiian Electric Companies' Proposed Pilot Process; Exhibit 1; and Certificate of Service," filed April 30, 2021.

<sup>3</sup>See D&O 37507 at 166-181.

<sup>4</sup>D&O 37507 at 166.

proposals would be submitted and reviewed, the duration of the Pilot Process, annual review and reporting requirements for approved pilots, cost recovery for approved pilots, and how proposed expansion of successful pilots may be considered.<sup>5</sup> D&O 37507 instructed the Companies to develop and submit a written Pilot Process consistent with this framework for the Commission's review.<sup>6</sup>

On April 30, 2021, Hawaiian Electric submitted its Pilot Process.

## II.

### DISCUSSION

In general, the Commission finds Hawaiian Electric's Pilot Process reasonable and consistent with D&O 37507. The Commission notes that much of the proposed language in the Pilot Process is taken directly from or substantively based on D&O 37507.

In addition, Hawaiian Electric has proposed "certain details aligned with the purpose and intent of the Pilot Process set forth in D&O 37507," as well as "alternatives or supplements that may facilitate successful application and implementation of

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<sup>5</sup>See D&O 37507 at 169-180.

<sup>6</sup>D&O 37507 at 180.

the Pilot Process.”<sup>7</sup> The Commission addresses each of the components of the Pilot Process below, including the Companies’ proposed details and/or suggested additions.

Process. The process outlined in the Pilot Process is consistent with D&O 37507. In addition, the Commission appreciates the Companies’ initiative in proposing a Workplan Development Framework to facilitate the development of pilots with stakeholders.<sup>8</sup>

The Commission affirms that it will continue its independent review of the EBus Make-Ready Infrastructure Pilot Project (“EBus Pilot”) and Charge Ready Hawaii Pilot Project (“Charge Ready Pilot”) in Docket Nos. 2020-0098 and 2020-0202, respectively, but that any approved pilot project resulting from these dockets will be subject to the Pilot Process.<sup>9</sup>

In this regard, the Commission notes that it has approved the EBus Pilot in Docket No. 2020-0098.<sup>10</sup> Pursuant to that approval, Hawaiian Electric has been authorized to recover EBus Pilot costs through the Renewable Energy

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<sup>7</sup>Pilot Process at 2.

<sup>8</sup>See Pilot Process at 4-5 and Exhibit 1.

<sup>9</sup>See Pilot Process at 5.

<sup>10</sup>See Docket No. 2020-0098, Decision and Order No. 37769, filed May 7, 2021 (“D&O 37769”).

Infrastructure Projects ("REIP") surcharge.<sup>11</sup> In anticipation of the Pilot Process, in Docket No. 2020-0098, the Companies have filed a proposal by which to transfer cost recovery for the EBus Pilot from the REIP surcharge to the Pilot Process.<sup>12</sup> The Companies propose that "[i]f the Commission issues an order approving the [Pilot Process], the Companies respectfully request that all remaining [EBus Pilot] project costs not yet recovered through the REIP surcharge be reclassified as a deferred cost, and recovered through the [Pilot Process]."<sup>13</sup> This proposed treatment is consistent with D&O 37507.<sup>14</sup> At this time, it does not appear that any EBus Pilot costs have been included in the REIP surcharge; accordingly, the Companies shall utilize the

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<sup>11</sup>D&O 37769 at 32-35.

<sup>12</sup>See Docket No. 2020-009, Letter From: K. Katsura To: Commission Re: Docket No. 2020-0098 - Hawaiian Electric Companies; for Approval of the eBus Make-Ready Infrastructure Pilot Project; Update on Intended Treatment of the Projected Revenue Requirement, filed June 7, 2021 ("EBus Pilot Update").

<sup>13</sup>EBus Pilot Update, Exhibit A at 6.

<sup>14</sup>C.f., D&O 37769 at 31-32 ("It follows then, and the Commission highlights, that this Pilot will, by and large, be subject to the Pilot Process, which includes reporting requirements, as well as counting Pilot costs toward the \$10 million annual Pilot Process cost cap.") (footnote omitted). See also, Pilot Process at 5.

Pilot Process, as approved herein, to recover the costs for the EBus pilot.<sup>15</sup>

Notice. The Notice described in the Pilot Process is consistent with D&O 37507.<sup>16</sup> The information to be included in the Notice is consistent with D&O 37507, and shall include, inter alia, items such as a description of the pilot, key customer benefits, eligibility requirements, a proposed project timeline, success criteria, estimated costs and revenues (if applicable), and a discussion on expected outcomes of the pilot. The Commission will review pilot Notices on an expedited basis and issue an order within 45 days approving, denying, or modifying the proposed pilot as described in the Notice.

On this latter point, the Companies propose:

Due to the possibility that an order significantly modifying a proposed pilot project could impact, among other things, the benefits, costs, timeline, expected outcomes, and risk, associated with the project, the Companies respectfully request that to the extent that the Commission elects to modify the proposed pilot, that the Companies, and if applicable the impacted stakeholders, be allowed to

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<sup>15</sup>See EBus Pilot Update, Exhibit A at 7 (“If the Commission approves the Proposed Pilot Process prior to completion of the [EBus Pilot] Project, the Companies propose that the Pilot costs incurred to date (including AFUDC) be reclassified to a deferred cost. The deferred cost at the end of the year (including the deferred O&M expenses for the ramp-up period) would be included as part of the Spring Revenue Report in the following year and recovered through the RBA Rate Adjustment beginning June 1<sup>st</sup>.” [footnote omitted]).

<sup>16</sup>Compare Pilot Process at 6 to D&O 37507 at 173-174.

accept the modification, propose further modifications, or withdraw the Notice within 15 days of receiving the Commission's order.<sup>17</sup>

The Commission finds this proposed addition reasonable; however, to avoid confusion, the Commission clarifies that the Companies shall notify the Commission in writing within 15 days of the Commission's order whether the Companies accept the modifications to the pilot, propose further modifications to the pilot, or withdraw their Notice for that pilot.<sup>18</sup>

Discontinuance or Material Change. The process for addressing discontinuance or material change to an approved pilot project outlined in the Pilot Process is consistent with D&O 37507. In addition, the Companies make a similar request that they be allowed to propose further modifications or withdraw the request to modify the pilot project, in the event the Commission modifies a request to materially change an approved pilot project.<sup>19</sup> Consistent with the above regarding the Notice provision of the Pilot Process, the Commission finds this proposal reasonable, but clarifies that the Companies must submit in writing within 15 days of the Commission's applicable order whether they accept

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<sup>17</sup>Pilot Process at 7.

<sup>18</sup>See Pilot Process at 7 (it is unclear if the "within 15 days" timeframe stated in the Pilot Process refers to all of the potential actions listed, or just the withdrawal of the Notice).

<sup>19</sup>Pilot Process at 7.



the Commission's modifications, propose alternative modifications, or elect to withdraw the request for material changes to the pilot project.

Duration. The Companies state that the Pilot Process will be available throughout the PBR Framework's Multi-Year Rate Period, and that each pilot's duration may be reviewed by the Commission on a case-by-case basis. This approach is consistent with D&O 37507.

Review and Reporting. The annual report described in the Companies' proposed Pilot Process is consistent with D&O 37507. The Commission observes that the Pilot Process states that "[t]he Companies do not anticipate filing a Pilot Update until March 31, 2022,"<sup>20</sup> which is also consistent with D&O 37507.<sup>21</sup>

Cost Recovery. In general, cost recovery under the Pilot Process is consistent with D&O 37507. As noted above, pilot Notices will be reviewed on an expedited basis and an order will be issued within 45 days addressing, in pertinent part, the estimated costs for the Pilot. If the Notice is approved, the Order will authorize the Companies to commit a certain amount

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<sup>20</sup>Pilot Process at 9.

<sup>21</sup>See, D&O 37507 at 175 ("The Companies will file an annual comprehensive report covering all active pilots ('Pilot Update') by March 31 of each year.") and 177 ("That being said, no Pilot Update will be required for 2021, as it is expected that no new pilots will yet be in place . . . .").

of resources towards the pilot;<sup>22</sup> however, the ultimate amount of costs that may be recovered from ratepayers will be determined on a case-by-case basis upon review of the estimated costs in the Notice and the actual costs included in the Pilot Update submitted as part of the PBR Framework's annual Spring Review.<sup>23</sup>

The Companies propose that all costs associated with the approved pilot be deferred and recorded as expense in the applicable functional expense account(s), as the costs are recovered through the RBA Rate Adjustment over twelve months beginning June 1 of the following year.<sup>24</sup> The Companies note that the deferral of all pilot costs, and recovery of such costs in the following year would be consistent with treatment of research and development costs which the Companies record and recover in rates as O&M expenses.<sup>25</sup> Specifically, "[t]he Companies propose that

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<sup>22</sup>See D&O 37507 at 177; and Pilot Process at 9.

<sup>23</sup>See D&O 37507 at 177-178 ("It is expected that recoverable costs will be consistent with those previously approved in the order addressing the Notice, but will take into account considerations such as cost overruns, changes to the pilot, offsetting revenues generated by the pilot, etc."); and Pilot Process at 11 (quoting the same).

<sup>24</sup>Pilot Process at 9-10.

<sup>25</sup>Pilot Process at 9-10 ("... the nature of the pilot projects may be more similar to research and development projects in that they may not all proceed to full development and implementation after the initial pilot period. Under generally accepted accounting principles, research and development costs are expensed as incurred, and generally these costs have been included as expenses in establishing electric rates.").

total expenditures for pilots implemented under the Pilot Process be deferred and recovered in full over twelve months beginning June 1 of the following year.”<sup>26</sup> The Companies clarify that they would not “recover a return on the unamortized balance of the deferred costs or recover a carrying cost for the period from the incurrence of the cost until the onset of the recovery of the pilot costs[;]” however, if the Commission approves that the deferred costs be amortized over a longer period, the Companies request that they be able to recover a return on the unamortized balance, as well as carrying costs.<sup>27</sup>

The Commission finds this proposal reasonable, with the following clarifications. First, the Pilot Process refers to “deferral of all pilot project costs,” such that total expenditures” for each pilot will be deferred and recovered the following year.<sup>28</sup> The Commission clarifies that this should refer to “total annual expenditures,” i.e., the pilot project’s cost for that year, rather than the total cost for the entire project. This is consistent with D&O 37507, which provides that during the annual Spring Review, the Commission will review the Pilot Update and “determine, at that time, the amount of pilot costs that may

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<sup>26</sup>Pilot Process at 10.

<sup>27</sup>Pilot Process at 10.

<sup>28</sup>Pilot Process at 10 (emphasis added).

be recovered for that year[,]” which may be affected by considerations such as “cost overruns, changes to the pilot, offsetting revenues generated by the pilot, etc.”<sup>29</sup>

Second, while the Commission finds the Companies’ proposal to amortize deferred pilot project costs over twelve months reasonable, in some instances different treatment may be warranted. In the event that the Commission determines that a pilot project’s deferred costs should be amortized over a period greater than twelve months, the Commission will consider the Companies’ request that they be allowed to earn a return on the unamortized balance, but will address this, including determination of the rate of any such return, on a case-by-case basis in the review and approval of the Notice.

Third, the Commission does not agree with the Companies’ proposed shared savings mechanism (“SSM”) for instances “where the actual pilot costs are greater than the authorized estimate in an approved Notice[.]”<sup>30</sup> In the event there are pilot project cost overruns, the Commission will address this issue on a case-by-case basis as part of its review of the Pilot Update during the Spring Review.

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<sup>29</sup>D&O 37507 at 177-178.

<sup>30</sup>Pilot Process at 11.

The Commission confirms that “[c]ost recovery will be allowed for the duration of the pilot, pursuant to the schedule approved by the Commission[,]” and that in the event the pilot is extended beyond its initial term or scaled up, “the nature and detail of the pilot’s cost recovery will be re-visited by the Commission.”<sup>31</sup>

Pilot Expansion. The Pilot Process provisions regarding potential expansion of approved pilot projects is consistent with D&O 37507.

In sum, the Commission approves the Companies’ Pilot Process, subject to the clarifications and modifications discussed above. Hawaiian Electric shall prepare and submit a finalized Pilot Process consistent with this Order by July 28, 2021, which shall govern the review of pilot project proposals, unless further modified by the Commission. Following the filing of the finalized Pilot Process, the Companies shall begin the Workplan process described in D&O 37507.<sup>32</sup>

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<sup>31</sup>Pilot Process at 12.

<sup>32</sup>See D&O 37507 at 171-172. See also, Pilot Process at 14.

III.

ORDERS

THE COMMISSION ORDERS:

1. Hawaiian Electric's proposed Pilot Process, filed on April 30, 2021, is approved, subject to the clarifications and modifications set forth above.

2. Hawaiian Electric shall file a finalized Pilot Process consistent with this Order by July 28, 2021.

DONE at Honolulu, Hawaii JULY 9, 2021.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By James P. Griffin  
James P. Griffin, Chair

By Jennifer M. Potter  
Jennifer M. Potter, Commissioner

By Leodoloff R. Asuncion, Jr.  
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:

Mark Kaetsu  
Mark Kaetsu  
Commission Counsel

2018-0088.ljk

CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing order was served on the date it was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.

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COMMISSION

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