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Public Utilities Commission for the State of Hawaii
Kekuanao`a Building
465 South King St., #103
Honolulu, HI 96813
August 5, 2025

RE: Docket 2025-0283: Hawaiian Electric Proposed Termination/Suspension of Affiliate Transaction Requirements - Public Comment Regarding Preferred Stockholders Default Majority Governance Right

Aloha Commissioners:

I write in response to Hawaiian Electric’s Docket 2025-0283 application “For Termination or Suspension of Affiliate Transaction Requirements” (“ATR”) dated 06/19/25. Under this application, Hawaiian Electric proposes the “implementation of a corporate integration....[including] an HEI-Hawaiian Electric integrated board of directors” by March 1, 2026. Notably, Hawaiian Electric Industries, Inc (“HEI”) and Hawaiian Electric Company, Inc. (“HECO” or “Hawaiian Electric”) currently have two entirely separate Boards of Directors for governance oversight, but “upon certain defaults in dividend payments, holders of Hawaiian Electric Preferred Stock may have the right to elect a majority of the directors of Hawaiian Electric.”¹ Also, HEI has currently suspended its common stock quarterly dividend in the aftermath of the tragic Lāhainā wildfire on the afternoon of 08/08/23.

Background:

Hawaiian Electric Company, Inc., organized under the laws of the Kingdom of Hawai‘i since 1891, is an operating public utility engaged in the production, purchase, transmission, distribution and sale of electricity on the island of O‘ahu and the principal owner of Maui Electric Company, Limited and Hawai‘i Electric Light Company, Inc. Since 1945, Hawaiian Electric has issued certain tranches of Preferred Stock and currently has approximately \$22.3 million in face value Series C thru K Preferred Stock outstanding. On 07/01/1983, Hawaiian Electric Company, Inc. effectuated an “Agreement and Plan of Merger” with Hawaiian Electric Industries, Inc. to create the current HoldCo/OpCo structure and once again reaffirmed the Preferred Stockholders majority governance right in the event of dividend default [Appendix A]. At this time, Hawaiian Electric Company, Inc. is current on its quarterly preferred dividends obligations and generally has the right to redeem the preferred securities for approximately \$21.00/share cash. Finally, I am an interested party in these proceedings because I am currently a publicly-disclosed beneficial owner of approximately 6.3% of the outstanding Hawaiian Electric Company, Inc. Series H 5.25% Cumulative Preferred Stock.²

¹ Hawaiian Electric Company, Inc. Exhibit 99.1, page 34: <https://www.sec.gov/Archives/edgar/data/46207/000035470725000013/heexhibit99110k2024rev.htm>

² SEC Form 13-D dated 01/24/24, and available via: https://www.sec.gov/Archives/edgar/data/46207/000121390024006962/ea192299-13dbarnes_hawaiian.htm

Current Utility Governance Framework:

At this time, Hawaiian Electric Industries, Inc and Hawaiian Electric Company, Inc. have entirely separate governance frameworks and Board of Directors members. Notably, the Hawaiian Electric Company, Inc. (the actual operating utility) Board of Directors membership features more islands perspectives, while the HEI Board composition is heavily weighted towards continental perspectives. Below is a summary of the biographical details of each of the current respective Board of Directors:

Hawaiian Electric Company, Inc. ("HECO") BoD				Hawaiian Electric Industries, Inc. ("HEI") BoD			
Name		Since	BoD Role & Experience	Name		Since	BoD Role & Experience
Timothy Johns		2005	"Independent" Chairman Zephyr Insurance, CEO (recused from Maui fire discussions)	Thomas Fargo		2005	Chairman & Independent Director United States Navy, Admiral
James Ajello		2020	"Independent" Director HEI, CFO (2011-2017)	Celeste Connors		2019	Independent Director Hawai'i Local 2030 Hub, CEO
Shelee Kimura		2022	CEO & President, Hawaiian Electric Company, Inc	Peggy Fowler		2019	Independent Director Portland General Electric, CEO
Mary Kipp		2023	Independent Director Puget Sound Energy, CEO	Bill Scilacci		2019	Independent Director Edison International, CFO
Toby Taniguchi		2021	Independent Director KTA Super Stores, COO	Scott Seu		2022	CEO Hawaiian Electric Industries, Inc.
				Elisa Flores		2021	Independent Director L&L Franchise, CEO
				Micha Kane		2019	Independent Director Hawaii Community Foundation, CEO

Proposed HEI/HECO Consolidation:

As per Hawaiian Electric's application For Termination or Suspension of Affiliate Transaction Requirements" dated 06/19/25, the "intent of HEI's and Hawaiian Electric's planned integration is to accomplish the pure play business model under which HEI will focus its efforts and resources solely on the successful operation of Hawaiian Electric." Notably, regarding corporate governance, the only disclosure to date is "there will be a single set of individuals serving as board members on both of the HEI and Hawaiian Electric boards." HEI and Hawaiian Electric have provided no additional details regarding 1) the size of the consolidated Board of Directors, 2) the desired skills-matrix of the consolidated members and the selection process anticipated for the consolidation of the two separated Board of Directors, or 3) which specific board members will join the consolidated governance framework. In light of the current HECO Board having a greater islands perspective than the continental perspective on the HEI Board, it is concerning that this rushed change may disenfranchise certain viewpoints within the governance mosaic. Finally, Hawaiian Electric has proposed additional simplifying changes regarding its executives/officers, employees, office space, consumer branding, corporate support services, credit/financing arrangements, and other business matters.

On 07/09/25, the Division of Consumer Advocacy filed a response indicating that due to outstanding document requests and unanswered questions, it is unable to state its position on the merits of the application and cannot, at the time, offer its

recommendation to the Commission regarding whether the application should be approved or denied. The Division of Consumer Advocacy review appears to be on-going and there have been no further docket entries to provide a briefing or hearing schedule.

Hawaiian Electric Preferred Stockholder Perspective on Proposed Consolidation:

While I take no formal position at this time on the overall suitability of Hawaiian Electric's proposed Termination or Suspension of Affiliate Transaction Requirements by March 1, 2026, I would like to explicitly note:

1. Hawaiian Electric has not yet disclosed whom specifically will serve on the proposed HEI-Hawaiian Electric integrated Board of Directors.
2. Hawaiian Electric Company, Inc. Preferred Stockholders, upon certain defaults in quarterly dividend payments, will continue to have the right to elect a **majority** of the directors of the Hawaiian Electric utility.
3. If the springing governance change-in-control provision after a preferred dividend default raises any concerns with the Public Utilities Commission, Hawaiian Electric Company, Inc. can be instructed to **further simplify its corporate structure and fully redeem** its outstanding preferred stock prior to the ATR effective date.

Should the Public Utilities Commission have any additional questions or requests, I am available via Kevin808Barnes@gmail.com or 1.808.400.8889. I look forward to constructively participating in the proceeding and all rights reserved.

Mahalo-



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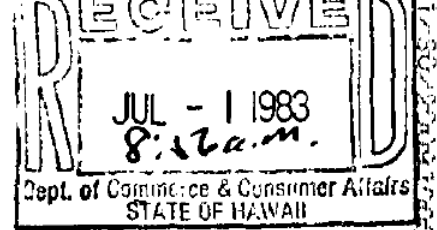
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Appendix A

Excerpt of Hawaiian Electric Company, Inc. Agreement and Plan of Merger, dated July 1, 1983

b

AGREEMENT AND PLAN OF MERGER



Agreement and Plan of Merger (this "Agreement")
dated as of July 1, 1983, by and among HAWAIIAN ELECTRIC
COMPANY, INC., NEW HECO, INC. and HAWAIIAN ELECTRIC INDUSTRIES,
INC.

W I T N E S S E T H:

WHEREAS, HAWAIIAN ELECTRIC COMPANY, INC. (herein-
after sometimes referred to as "Heco"), is a corporation
organized under the laws of the Kingdom of Hawaii on October
13, 1891 and existing under the laws of the State of Hawaii,
and has its principal office at 900 Richards Street, Honolulu,
Hawaii, and has authorized and outstanding capital stock as
set forth in Article V hereof; and

WHEREAS, NEW HECO, INC. (hereinafter sometimes re-
ferred to as "New Heco"), is a corporation organized under
the laws of the State of Hawaii on July 30, 1981, and has
its principal office at 900 Richards Street, Honolulu, Hawaii.
New Heco has an authorized capital stock of 1,000 shares of
common stock of the par value of \$1.00 per share, all of
which are outstanding and owned by Hawaiian Electric Industries,
Inc.; and

WHEREAS, Heco and New Heco are hereinafter sometimes
referred to collectively as the "Constituent Corporations";
and

WHEREAS, HAWAIIAN ELECTRIC INDUSTRIES, INC. (herein-
after sometimes referred to as "Industries") is a corporation
organized under the laws of the State of Hawaii on July 20,
1981 and has its principal office at 900 Richards Street,
Honolulu, Hawaii, and has an authorized capital stock con-
sisting of 15,000,000 shares of common stock of the par
value of \$6 2/3 per share, of which 1,000 shares are out-
standing and are owned by Heco, and 500,000 shares of pre-
ferred stock of the par value of \$100 per share, none of
which are outstanding.

NOW, THEREFORE, in consideration of the premises
and the agreements herein contained, the parties agree that
New Heco will be merged into Heco, the latter being the
surviving corporation, on the following terms and conditions:

DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS
STATE OF HAWAII

Filed on - 8:56 A.M.

July 1, 1983

FILED FEE, CAPITAL Merger • 50.00 + 100.00
CERTIFICATION 1 Copies • 9.50
TOTAL • 159.50

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(v) The Board of Directors shall have full discretion from time to time to prescribe and regulate, subject to the provisions hereinabove set forth, the procedure to be followed and the details concerning the redemption of shares of Series H Preferred Stock.

No Reissuance of Redeemed Preferred Stock

(vi) No Series H Preferred Stock redeemed as above provided shall be subject to reissue by the Company.

Voting Rights

(f) **Holders of Series H Preferred Stock** shall not be entitled to any voting rights or privileges, except as otherwise expressly provided to the contrary, and without limitation to the generality of the foregoing the holders of Series H Preferred Stock shall have no right to vote on the matter of the creation or issuance of new series or additional shares of Preferred Stock; provided, however, that in the event the Company shall at any time be in default in the payment of four quarterly dividends on the Series H Preferred Stock then the holders of the Series H Preferred Stock until all accrued dividends on the Preferred Stock shall have been paid shall have the right as a class, together with the holders of all other issues of Preferred Stock then outstanding, if the holders of such other issues of Preferred Stock are under the terms of the resolutions creating the respective issues of Preferred Stock then entitled to vote for directors, to elect a majority of the Board of Directors, and the holders of Common Stock shall have the right as a class to elect one less than a majority of the Board of Directors; and, provided further, that the right to elect a majority of the Board of Directors, under the circumstances as aforesaid, shall not affect or modify the provision of the By-laws or any modification of such provision or any future provision of the By-laws authorizing the members of the Board of Directors, even though a minority, to fill vacancies in the Board of Directors, including temporary vacancies caused by the illness of directors or the temporary absence of directors from the Island of Oahu. Whenever Series H Preferred Stock shall be entitled to voting rights, each share of Series H Preferred Stock having such rights shall be entitled to one vote. The provisions of this subparagraph (f) are subject to any provisions of law requiring the vote of holders of Preferred Stock with respect to certain matters.

Pre-emptive Rights

(g) The Series H Preferred Stock shall have no pre-emptive rights.

3. The Company may from time to time make additional issues of Preferred Stock with preferences, voting powers, restrictions and qualifications thereof other than those contained herein except that—

Limitation on Additional Issues of Preferred Stock

(1) All dividends on all series of Cumulative Preferred Stock shall be payable in equal quarterly installments on January 15, April 15, July 15 and October 15 in each year;

(2) No dividends shall be declared on any series of Cumulative Preferred Stock in respect of any quarter-yearly dividend period unless there shall likewise be declared on all shares of all series of Cumulative Preferred Stock at the time outstanding like proportionate dividends, ratably, in proportion to the annual dividend rates fixed therefor, in respect of the same quarter-yearly dividend period, to the extent that such shares are entitled to receive dividends for such quarter-yearly dividend period; and

(3) The holders of each series of Cumulative Preferred Stock shall share ratably in any distribution upon any liquidation, dissolution or winding up of the Company after payment or provision is made for the payment of all creditors;

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