

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate  
Performance-Based Regulation.

DOCKET NO. 2018-0088

**ULUPONO INITIATIVE LLC'S BRIEF ON PHASE 5  
OF THE COMPREHENSIVE EVALUATION OF THE PBR FRAMEWORK**

**AND**

**CERTIFICATE OF SERVICE**

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Ulupono Initiative LLC (“Ulupono”), by and through Murray R. Clay, its President, and its attorneys Schlack Ito, A Limited Liability Law Company, and pursuant to the Commission’s Order No. 41639,<sup>1</sup> hereby respectfully submits its Brief on Phase 5 of the Comprehensive Evaluation of the Performance-Based Regulation (“PBR”) Framework (“Brief”), as follows.

Ulupono appreciates the Commission providing the parties with “an opportunity to share their positions regarding the performance” of Hawaiian Electric<sup>2</sup> under the PBR Framework in the first multi-year rate plan (“MRP1”).<sup>3</sup> It should be noted, however, that this opportunity occurs in the context of a pending cost of service regulation (“COSR”) rate case which, in important aspects, is plainly antithetical to performance-based regulation. Under performance-based regulation, the focus is on incentivizing utility performance to achieve energy policy objectives for the benefit of utility customers. By contrast, a traditional COSR rate case

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<sup>1</sup> Order No. 41639 Establishing a Briefing Schedule for Phase 5 of the Comprehensive Evaluation of the PBR Framework (“Order No. 41639”). This Brief is timely filed on or before the due date of May 5, 2025. *Id.* at 6.

<sup>2</sup> Hawaiian Electric Company, Inc. (“HECO”), Hawaii Electric Light Company, Inc. (“HELCO”), and Maui Electric Company, Limited (“MECO”) (collectively, “Hawaiian Electric” or “Companies”).

<sup>3</sup> *Id.* at 1, 5.

unduly shifts the regulatory focus to rewarding spending – and risks neutralizing the primary focus on performance under the PBR Framework.

The introduction of a COSR rate case after nearly five years of performance-based regulation presents challenges not only to ongoing electric utility regulation under the PBR Framework, but also to the Phase 5 evaluation of PBR mechanisms requested in Order No. 41639. Simply put, the rate case may demand a shift in the focus and attention of the Commission and parties away from performance toward the cost of service, leaving little room for the former – even to the point where a rate case decision may foreclose PIM reward increases. In turn, the Phase 5 evaluation of PBR mechanisms must be undertaken within the constraints of this context, potentially impacting the usefulness of the assessments.

Accordingly, Ulupono strongly urges the Commission to undertake Phases 5 and 6 of this proceeding, as well as the rate case, in a manner that safeguards the preeminent role of performance under the PBR Framework, and in particular does not foreclose meaningful increases to PIM rewards or other necessary modifications to PBR mechanisms. The key points in this Brief may be summarized as follows:

- In reviewing proposals in Phases 5 and 6 to increase PIM rewards or otherwise modify PBR mechanisms, the Commission should safeguard and prioritize the continued incentivization of performance under the PBR Framework, especially given that current PIM rewards are severely deficient;
- To the extent the rate case overlaps with Phases 5 and/or 6, the Commission should conduct the rate case in a manner that rejects any deemphasis on performance in favor of rewarding spending; and

- For Phases 5 and 6, the Commission should approve proposals for PIM reward increases and other PBR mechanism modifications consistent with Ulupono’s assessment below.

**I. UTILITY PERFORMANCE MUST REMAIN A CENTRAL GUIDING PRINCIPLE IN THE RATE CASE AND PHASES 5 AND 6**

**A. The PBR Framework Prioritizes Utility Performance.**

As the name implies, performance-based regulation is based on performance. Performance – as much or more so than other considerations – is fundamental to PBR. Pursuant to Order No. 41575,<sup>4</sup> Hawaiian Electric’s Target Revenues will be re-based for the second multi-year rate period (“MRP2”) and the re-basing will be “effectuated via a rate case-like procedure” (“rate case”).<sup>5</sup> The Commission has also established a briefing schedule for Phase 5 pursuant to Order No. 41639, and the briefs for Phase 5 are requested to address which PBR mechanisms “should be examined during Phase 6 for potential modification.”<sup>6</sup> Thus, the rate case as well both Phase 5 and Phase 6 are interrelated and relevant to this Brief on Phase 5.

The Commission should proceed with the rate case and Phases 5 and 6 in a manner that strengthens and reaffirms the commitment of the PBR Framework to the primacy of utility performance. It is well established that utility performance has been a core guiding principle and at the heart of the PBR Framework since its inception. Indeed, the Commission clarified and affirmed the central importance of performance in establishing the PBR Framework almost five years ago. For example, in Decision and Order No. 37507,<sup>7</sup> the Commission described the basic structure of PBR as involving certain benefits to the utility, including

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<sup>4</sup> Order No. 41575 Addressing the Matter of Re-basing Hawaiian Electric’s Target Revenues for the Second Multi-Year Rate Period filed Feb. 27, 2025 (“Order No. 41575”).

<sup>5</sup> *Id.* at 38.

<sup>6</sup> Order No. 41639 at 6.

<sup>7</sup> Decision and Order No. 37507 filed Dec. 20, 2020 (“D&O No. 37507”).

“significant earnings opportunities” for Hawaiian Electric “in exchange for exemplary performance.”<sup>8</sup> In recognizing that a “fundamental change in the regulatory framework was necessary to sustain the transition toward a regulatory model that holistically aligns utility interests with customer needs and the State’s clean energy goals[,]” the Commission concluded that regulatory reform could be accomplished in part through “a set of alternative utility regulatory mechanisms intended to focus utilities on performance[.]”<sup>9</sup>

The primacy of performance is reinforced by the black letter as well as the spirit of applicable statutory provisions, specifically Hawaii Revised Statutes (“HRS”) section 269-16.1, “Performance incentive and penalty mechanisms.” As the Commission is well aware, under subsection (a) of this provision the Commission was mandated to establish performance incentives (as well as penalty mechanisms), both of which must “directly tie an electric utility’s revenues to that utility’s achievement performance metrics[.]”<sup>10</sup> In addition, the performance incentives and penalties must “break the direct link” between allowed revenues and investment levels.<sup>11</sup> Given the central role of performance under the PBR Framework, the Commission should proceed with the rate case in a manner that is supportive of and does not undercut or hamper the continued evolution of incentives for utility performance.

**B. The Rate Case Is Likely to Result in Increased Total Revenues and a Rate Increase for Utility Customers.**

Although the outcome of the rate case is unknown, it appears likely to include an increase in Hawaiian Electric’s Target Revenues as well as a rate hike for customers. Such potential changes to Target Revenues are contemplated by the PBR Framework. As explained in

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<sup>8</sup> *Id.* at 2.

<sup>9</sup> *Id.* at 7-9 (emphasis added) (citations omitted).

<sup>10</sup> Haw. Rev. Stat. §269-16.1(a) (emphasis added).

<sup>11</sup> *Id.*

Order No. 41575, the effective Target Revenues for each of the Companies is initially “based” on the electric sales revenue (net of fuel, purchased power and revenue tax expense) as determined from the results of the most recent rate case for each company. Cumulative periodic adjustments were made in accordance with the Revenue Balancing Account and PBR Framework provisions. The term “re-basing” therefore refers to “changing the basis and/or amount of Target Revenues that will initially take effect for MRP2 in addition or exception to the specific provisions existing tariffs.”<sup>12</sup>

Consistent with these contemplated changes to Target Revenues, the record in this proceeding reflects acknowledgement of potential increases to Target Revenues and that the rate case likely means a rate hike. Notably, the Companies assert that there is a “need to rebase” due to a “revenue deficiency,” implying that re-basing may result in an increase in Target Revenues.<sup>13</sup> Similarly, the Consumer Advocate<sup>14</sup> indirectly acknowledges an increase is possible in stating that re-basing does not necessarily assume an increase in rates.<sup>15</sup> As explained below, the anticipated increase in Target Revenues creates a risk of limiting or foreclosing PIM reward increases.

**C. Phases 5 and 6 May Result in Recommendations to Increase PIM Reward Values.**

PIM rewards are currently not sufficient to meaningfully incentivize the Companies to achieve performance objectives and have been a comparatively miniscule portion of utility revenues. As illustrated in the pie charts below, current PIM rewards are a tiny fraction

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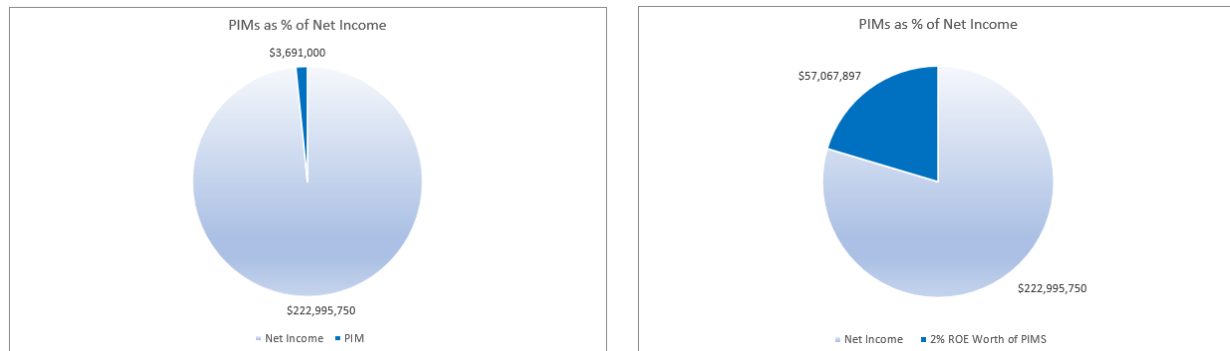
<sup>12</sup> See Order No. 41575 at 1 n. 2 (emphasis added).

<sup>13</sup> See Hawaiian Electric Companies’ Brief filed Dec. 5, 2024 at 24.

<sup>14</sup> State of Hawaii Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (“Consumer Advocate”).

<sup>15</sup> Division of Consumer Advocacy’s Phase 5 Brief on Re-Basing filed Dec. 5, 2024 at 2-3.

of net income and increasing the PIM rewards to total 2% is necessary to better incentivize performance.



Thus, as a general matter, Ulupono recommends that PIM rewards be increased to provide a meaningful incentive to align with the directives in HRS § 269-16.1(a). To ensure the PBR Framework remains appropriately focused on incentivizing performance, a combined earning potential of approximately 2% of ROE (approximately \$60 million in pre-tax revenues for HECO only) should be possible through increased rewards for PIMs. Absent this, nearly all revenues will be based largely on the results of the pending COSR rate case – simply a reward for spending – and not a reward for performance. More specifically, Ulupono recommends that the PIM reward be increased for the Renewable Portfolio Standard – Accelerated (“RPS-A”) PIM, as discussed in further detail below.

Given the deficiency of the current PIM rewards, Phases 5 and 6 contemplate review and potential approval of proposals to increases in PIM rewards and make other modifications to PBR mechanisms. For example, Order No. 40852 states that Phase 5, “Evaluate the PBR Framework,” focuses on identifying which PBR mechanisms can remain unmodified and which should be targeted for examination in Phase 6.<sup>16</sup> Order No. 40932 similarly provides

<sup>16</sup> Order No. 40852 Providing Preliminary Guidance Regarding the Comprehensive Review of the Performance-Based Regulation Framework filed June 19, 2024 (“Order No. 40852”) at 4.

that Phase 5 will focus on an evaluation of whether the existing PBR mechanisms are “working as intended” and a determination of which mechanisms should be examined for modification, and Phase 6 will examine modifications to the PBR Framework.<sup>17</sup> And more recently, Order No. 41639 reconfirms that the Phase 5 briefs should evaluate which PBR mechanisms should be examined for potential modification in Phase 6.

**D. The Rate Case Should Not Preclude Meaningful PIM Reward Value Increases and Other PBR Mechanism Modifications.**

The paramount concern at this juncture – and critically important context for Phases 5 and 6 – is to avoid improperly and unnecessarily hampering or even precluding meaningful PIM modifications due to the rate case. In particular, and given current PIM reward deficiencies, as well as the central importance of utility performance in the PBR Framework, PIM reward increases must be protected from undue Target Revenue increases in the rate case.

It is axiomatic that under the PBR Framework PIM incentives must remain capable of financially incentivizing the Companies to achieve performance objectives, especially to the extent that a rate case may substitute or supplant PIM rewards with Target Revenue increases. As noted throughout this Brief, the recent and past annual amounts of PIM rewards are simply far too small to meaningfully incentivize utility performance. There is a significant risk that the rate case will focus almost entirely on justifying higher rates in a manner that is to the detriment of increasing PIM rewards to strengthen the PBR Framework. In short, the rate case must not be permitted to hobble or even foreclose meaningful financial incentives, thereby jeopardizing the future success of PBR in Hawaii.

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<sup>17</sup> Order No. 40932 Providing Further Guidance Regarding the Comprehensive Review of the Performance-Based Regulation Framework filed June 19, 2024 (“Order No. 40932”) at 4-5.



Ulupono submits that the record at this time does not provide sufficient clarity or assurance that the opportunity for meaningful modifications to PBR mechanisms – including PIM reward increases – will be preserved in the face of the rate case. Ulupono appreciates that Order No. 41575 states:

Third, the timing of Track 1 in the re-basing proceeding is likely to overlap with Phase 6 of the Comprehensive Review in this proceeding. As the question about the appropriate level of Target Revenues for MRP2 may be relevant to discussions about potential modifications to other PBR mechanisms it is prudent to allow this overlap. Relatedly, naming the PBR Parties as parties to the re-basing proceeding ensures their awareness of relevant developments in both dockets.<sup>18</sup>

At the same time, however, the record reflects diverse and potentially divergent views on the interplay between re-basing Target Revenues and PIM modifications.

For example, with regard to timing of completion of re-basing relative to Phases 5 and 6, the Companies assert that re-basing must occur before the beginning of MRP2.<sup>19</sup> The Companies have also commented that the procedural schedules for Phases 5, 6, and 7 would need to allow sufficient time and effort ahead of MRP2 to complete re-basing and “implement new interim or final rates” before MRP2.<sup>20</sup> At the same time, the Companies have indicated “the mechanics of the rebasing process would need to be determined by February 2025 for the rebasing process to be completed and new target revenues and rates that collect such target revenues determined before the start of the new MRP.”<sup>21</sup>

It should be noted that the Companies apparently plan to seek interim rate increases as part of the rate case, which may create additional challenges in safeguarding

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<sup>18</sup> *Id.* at 35 (emphasis added).

<sup>19</sup> Hawaiian Electric Companies’ Brief at 24.

<sup>20</sup> Hawaiian Electric Companies’ PBR Comprehensive Review Comments filed July 19, 2024 at 14.

<sup>21</sup> Hawaiian Electric Companies’ Brief at 3-4 (emphasis added) (citations omitted).

potential PIM reward increases. For example, the Companies have stated in connection with the “Rate Case/Rebasing Process and Timing” that they plan to seek Commission approval of interim rates by September 30, 2026.<sup>22</sup> An early determination in favor of awarding interim rates to the Companies may have the unintended consequence of establishing precedent for a rate hike through the rate case. Such a rate hike could in turn limit or even foreclose meaningful consideration by the Commission of potential increases to PIM rewards necessary to sustain the primary focus on performance under the PBR Framework.

With regard to the substance of the interplay between rate case re-basing Target Revenues and increasing PIM rewards, or making other PBR mechanisms modifications, the record reflects various positions which at a minimum necessitate further consideration and clarification. These positions underscore the risk that increased rates from the rate case will likely decrease the likelihood of additional revenue earning opportunities through PIM rewards. For example:

- The Companies have suggested PIM rewards should be excluded from review of revenue sufficiency in certain instances, stating: “Since PIM rewards and penalties are financial incentives to encourage exceptional Company performance (as opposed to expected or standard performance), analyses to test the sufficiency of revenues should exclude PIM rewards and penalties from operating income.”<sup>23</sup>
- The Commission’s slides for the August 2024 Working Group meeting broach the topic of substituting PIM rewards for Target Revenues, stating:  
  
“Discussion on how Target Revenues interacts with other mechanisms in the

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<sup>22</sup> Hawaiian Electric, PBR Working Group Financial Scenarios (Oct. 25, 2024) at 18.

<sup>23</sup> Hawaiian Electric Companies’ PBR Comprehensive Review Comments filed July 19, 2024 at 6.

PBR Framework” . . . “Is it presumed that revenue requirements determined by a re-basing would translate directly into the revenue amount used as the basis for the compounded component of the ARA formula in MRP? Or would/could other PBR mechanisms, acting conjunctively, be the means for providing revenue requirements?”<sup>24</sup>

- The Commission’s slides for the October 2024 Working Group meeting similarly state that “[t]here are other adjustments that could be considered in lieu of re-basing Target Revenues, such as modifying PIM incentives.”<sup>25</sup>

As the foregoing makes abundantly clear, further attention and consideration is necessary to avoid unintended consequences and misalignment regarding the interplay between the continued promotion of performance through PBR mechanism changes and the rate case. Ulupono strongly supports Commission review and decision-making for Phase 5 and beyond in a manner that safeguards and protects the interest in increasing PIM rewards, as may be necessary and appropriate, to sustain the proper focus on performance under the PBR Framework.

**E. The PBR Working Group Process Should Continue to Develop a Re-Basing Methodology for MRP3 and Beyond.**

As an additional comment regarding the context for Phases 5 and 6, and consistent with the rate case concerns discussed above, Ulupono proposes that the Commission continue or extend the current PBR review working group process for the purpose of continuing to work toward a PBR re-basing mechanism. The Commission has addressed this request in section D of Order No. 41575, “What This Order Means For Future MRP Cycles,” stating that

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<sup>24</sup> Public Utilities Commission, PBR August Working Group Meeting to Discuss Issues Regarding Re-Basing Target Revenues (August 30, 2024) at 35.

<sup>25</sup> Public Utilities Commission, PBR August Working Group Meeting to Discuss Issues Regarding Re-Basing Target Revenue (August 30, 2024) at 11.

due to “unique considerations, the Commission's decision to re-base Target Revenues ahead of MRP2 is not intended to establish precedent for future MRP cycles. It is possible that future re-basing may or may not be desirable; further, it is possible that any future re-basing may utilize different methods that are not based on a general rate case proceeding.”<sup>26</sup> In alignment with the Commission’s guidance, Ulupono supports pro-active efforts in a continued Working Group process to develop an acceptable re-basing methodology for future MRPs.

## **II. COMMENTS ON MODIFICATIONS TO PBR MECHANISMS IN PHASE 6**

Order No. 41639 states that the parties’ evaluations of Hawaiian Electric’s performance under the PBR Framework in MRP1 may include which specific PBR mechanisms should be examined in Phase 6 for potential modification. The following therefore provides Ulupono’s comments regarding potential PBR mechanism modifications. Comments are limited to a subset of all PBR mechanisms. For any PBR mechanisms not discussed below, Ulupono respectfully reserves the right to comment on any proposed changes to those mechanisms in Phases 5 and/or 6 or other phases of this proceeding.

Order No. 41639 also invites the parties to comment on how Hawaiian Electric has performed under the PBR Framework’s goals and outcomes. The goals and outcomes are described in the “PBR Goals and Outcomes” table in D&O No. 37507 (“goals and outcomes”).<sup>27</sup> Ulupono has not undertaken an independent analysis of the Companies’ performance under each separate goal and outcome. Rather, Ulupono’s remarks on the utility’s performance concerning the goals and outcomes (with the latter specifically identified) are incorporated into the discussion regarding PBR mechanism modifications below.

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<sup>26</sup> *Id.* at 37 (emphasis added).

<sup>27</sup> *See id.* at 11-12.

Finally, Order No. 41639 invites the parties to indicate whether any new goals or outcomes should be considered for MRP2. In response, Ulupono submits that the current goals and outcomes are sufficient and that it has not identified any new goals or outcomes to be considered for MRP2.

**A. Renewable Portfolio Standard – Accelerated (“RPS-A”) PIM.**

There is no change to Ulupono’s position in strong support of modification of the RPS-A PIM by increasing the reward amount. RPS-A PIM modifications should be considered in Phase 6 consistent with UI’s prior proposals, including, but not limited to, the proposed modifications described in the Stipulation on Modifications to Existing PIMs filed on Nov. 3, 2023 in this proceeding.

Increasing the RPS-A PIM reward should be approved by the Commission not only because it is strongly supported by the record in this proceeding – including a robust Benefit Cost Analysis (“BCA”) – but also because doing so is expected to significantly benefit utility customers in a highly cost effective manner. Fundamentally, PIMs such as the RPS-A PIM are for the benefit of utility customers, and the proposed increase is expected to incentivize more low cost renewable generation. Failing to adjust the RPS-A PIM in response to recent real-world experience will needlessly fail to secure those much-needed economic benefits for utility customers and hamper achievement of Hawaii’s energy transition. This may be especially true to the extent recent policy changes at the federal level adversely increased renewable generation and storage in Hawaii.

As the Commission is aware, there is an ample record to support increasing the RPS-A PIM reward. This record includes multiple filings and submissions, including but not limited to: (1) Ulupono Initiative LLC’s Phase 3 Final Statement of Position; (2) Ulupono Initiative LLC’s Phase 3 Post-Hearing Brief filed May 11, 2022; (3) Ulupono Presentation Slides

to the PIM Modification Subgroup presented on August 14, 2023 (“Ulupono Subgroup Slides”); (4) the Stipulation (filed November 3, 2023); and (5) Ulupono Initiative LLC’s Response to Information Requests from the Division of Consumer Advocacy, CA-UI-IR-1 to CA-UI-IR-2, filed January 11, 2024.<sup>28</sup> The Companies have also addressed issues surrounding the proposed reward increase in responses to Information Requests. The record related to the RPS-A PIM appears to be among the most detailed and well developed, as compared to other PIMs, in the PBR Framework.

Importantly, the modified RPS-A PIM reward is supported by a robust Benefit-Cost Analysis (“BCA”) which demonstrates that at a PIM reward level of only \$10 per MWh (which is the RPS-A PIM reward amount that was approved for 2024), the reward would have to be more than fifteen times higher the current amount before utility customers would fail to experience a net benefit.<sup>29</sup> Stated otherwise, utility customers will experience a net benefit as long as the new, modified PIM reward amount is not more than fifteen times higher than the current amount. Thus, the updated BCA strongly supports the conclusion that doubling the PIM reward to \$20 per MWh, as previously proposed, creates significant net value for the ratepayer while increasing utility incentives to create that value.<sup>30</sup>

*Affordability outcome.* The RPS-A PIM may support this outcome to the extent supported by the data. For example, data regarding the avoided cost of electricity from fossil generation may be compared to data regarding the cost of electricity from renewable generation from power purchase agreements with independent power producers. Such a comparison would be expected to demonstrate that accelerating the RPS results in savings for utility customers.

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<sup>28</sup> See Ulupono Initiative LLC’s Statement of Position on Stipulation on Modifications to Existing PIMs filed March 18, 2024 (“Ulupono SOP”) at 4 (citations omitted).

<sup>29</sup> Ulupono SOP at 7.

<sup>30</sup> *Id.*

*Reliability outcome.* The RPS-A PIM may indirectly support this outcome.

Increased battery storage is likely to support grid reliability. Although the RPS-A PIM reward is based on renewable generation, additions of generation are likely to be paired with additions of storage.

*Interconnection Experience outcome.* The RPS-A PIM strongly supports this outcome. RPS-A PIM rewards are earned based on increased renewable generation that is interconnected and operational. Expediting interconnection helps increase earned PIM rewards and thus incentivizes improved interconnection experience.

*Customer Engagement outcome.* The RPS-A PIM strongly supports this outcome by providing a clear incentive for the utility to add customer-sited renewable generation which increases and supports customer engagement.

*Cost Control outcome.* The RPS-A PIM may incentivize substituting capital costs for operating costs, increase the predictability of generation costs, and hedge fuel cost volatility.

*DER Asset Effectiveness outcome.* The RPS-A PIM may support this outcome insofar as DER assets can support the utility earning PIM rewards and therefore incentivize DER asset effectiveness.

*Grid Investment Efficiency outcome.* The RPS-A PIM incentivizes investments to enable additions of renewables to the grid, including resources with high locational value.

*Capital Formation outcome.* The RPS-A PIM is supported by beneficial capital formation. Ulupono submits that the RPS-A PIM may incentivize capital formation not only for independent power producers developing utility-scale projects, but also distributed energy resources. It is also noted that both of these types of capital formation, as supported by the RPS-A PIM, may face fewer challenges relative to utility self-build projects, to the extent the

Companies continue to face credit rating challenges that may adversely impact utility self-build project financing.

*Customer Equity outcome.* The RPS-A PIM incentivizes utility scale renewable generation which may promote customer equity (by benefiting all customers) relative to DERs.

*GHG Reduction outcome.* The RPS-A PIM incentivizes additions of renewable generation which will reduce GHG emissions.

*Electrification of Transportation outcome.* The RPS-A PIM incentivizes increased renewable generation which may support EOT. EOT is not a primary focus of the RPS-A PIM.

*Resilience outcome.* The RPS-A PIM incentivizes resilience by buffering fuel supply disruptions. This benefit of the RPS-A may be increased to the extent any government-imposed tariffs increase the amount or volatility of fuel costs.

**B. Exceptional Project Recovery Mechanism (“EPRM”).**

Ulupono supports consideration of potential revisions to the EPRM Guidelines regarding policy-based topics or areas that would be favorably considered (but not subject to blanket approval) under the Guidelines.

*Reliability outcome.* The EPRM may support this outcome to the extent it facilitates regulatory approval for utility spending on larger-scale climate resiliency and related programs.

*Cost Control outcome.* The EPRM may support this outcome by providing a clear mechanism for recovery for large projects, which could help the utility to raise capital for those projects.

*Resilience outcome.* Similar to the comment on the reliability outcome, above, the EPRM may provide a mechanism under which large and expensive projects will receive due



regulatory scrutiny, and also allow operating expenses to be considered if lower cost than the capital investment, there supporting achievement of the resilience outcome by providing a clear mechanism for recovery for large climate resiliency projects.

**C. Earnings Sharing Mechanism (“ESM”).**

Uluono supports continuation of the ESM in MRP2 as an integral component of the Annual Revenue Adjustment (“ARA”) Provision Tariff.

*Cost Control outcome.* The ESM may support this outcome. It is noted that there are cost control incentives fully throughout the deadband. Although less robust when the utility’s return on equity is lower, the cost control incentives persist in part because not all shortfalls are shared back to the utility.

*Capital Formation outcome.* The ESM supports capital formation by reducing overall risk to the utility’s financial integrity.

**D. DER Interconnection Approval PIM.**

The DER Interconnection Approval PIM was scheduled to sunset at the end of 2024. Uluono is neutral as to whether this PIM should be continued in MRP2 or considered for modification in Phase 6. It is noted that increasing the RPS-A PIM reward amount would reduce the need to reexamine and continue this PIM. It would also expedite interconnection times to add renewable generation and earn the PIM reward as quickly as possible.

**E. ARA: Customer Dividend (“CD”).**

Uluono has no objection to continuation of the CD in MRP2. The CD is a stretch goal which may be more necessary in MRP2 if the rate case increases Target Revenues and thereby reduces utility incentives. Related to the CD, Uluono does not support continuation of the management audit return to customers.

**F. Innovative Pilot Process.**

Ulupono supports continuation of the Innovative Pilot Process mechanism in MRP2. This mechanism can facilitate increased innovation which is necessary to expedite the achievement of policy objectives, including mitigating wildfire risk and increasing climate resilience. The need to devote resources to mitigating wildfire risk and increasing climate resilience should increase rather than diminish innovation and the use of this mechanism to facilitate innovation.

**G. Re-Opener Provision.**

Ulupono supports continuation of the Re-opener provision in MRP2.

**H. ARA: Z-Factor.**

Ulupono supports continuation of the Z-Factor in MRP2 as an integral component of the ARA as described in ARA Provision Tariff. As a procedural matter, Ulupono proposes that the Commission require Hawaiian Electric to serve any Commission filings regarding approval or implementation of Z-Factor claims to the parties in the PBR docket (Docket No. 2018-0088), i.e., all Z-Factor-related filings by Hawaiian Electric and any other parties in the Z-Factor docket would also be served on the PBR docket parties. The purpose of this requirement is to ensure PBR docket parties are provided with sufficient notice of any utility claim to utilize the Z-Factor, as an aid to the docket parties' continued participation in the PBR docket.

**I. MRP.**

Ulupono supports the 5-year MRP and does not support shortening or lengthening the MRP term. For MRP3 and beyond, Ulupono supports end-of-MRP review with no formal COSR rate case.<sup>31</sup> Ulupono also supports continuation of the Working Group process as

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<sup>31</sup> See Ulupono Initiative LLC Brief on Re-Basing Target Revenues filed Dec. 5, 2024.

discussed in section I.E, above. If the Commission ultimately authorizes a rate case for MRP3 and beyond, it should use an historical test year and not a forward-looking test year.

*Affordability outcome.* The 5-year MRP supports outcome of affordability by promoting utility cost control.

*Cost Control outcome.* The 5-year MRP supports outcome of cost control.

**J. ARA: X-Factor.**

There is no reason to modify the X-Factor of 0% and Ulupono supports continuation of the X-Factor of 0% in MRP2 for the same reasons the Commission approved the X-Factor of 0% for MRP1.

*Affordability outcome.* The X-Factor of 0%, as opposed to a negative percentage, is strongly supportive of this affordability outcome, especially as compared to annual increases based on the rate of inflation.

*Cost Control outcome.* The X-Factor of 0% supports this outcome by not enabling potentially wasteful or excessive spending by the utility.

*Utility financial integrity outcome.* The X-Factor of 0% may or may not support this outcome if, for example, utility costs grow at a rate that is faster than the rate of inflation and the utility is unable to successfully control costs.

**K. ARA: I-Factor.**

Ulupono supports continuation of the I-Factor in MRP2 as an integral component of the ARA as described in ARA Provision Tariff. In addition, Ulupono supports a true-up for the difference between forecasted inflation and actual inflation early in the new year, i.e., once prior actual inflation numbers have been finalized. Without this true-up, there is a risk that the I-Factor will not function properly if, for example, there are multiple years of forecasts that were too low or too high.

*Cost Control outcome.* The I-Factor supports cost control outcome consistent with conclusion of Hawaiian Electric’s consultant that utilities normally increase costs and spending by more than the rate of inflation, and thus limiting increases to the rate of inflation supports cost control.

*Capital Formation outcome.* The I-Factor supports capital formation outcome by helping to prevent a decline in utility revenues during an MRP.

**L. Revenue Balancing Account (“RBA”).**

Uluono supports continuation of the RBA in MRP2 as a fundamental component of the PBR framework.

*Affordability outcome.* The RBA indirectly supports this outcome insofar as it removes the utility’s incentive to sell more electricity and therefore resist energy efficiency, conservation, DERs, etc.

*DER Asset Effectiveness outcome.* The RBA indirectly supports this outcome by removing any disincentive the utility may have to increased DERs.

*GHG Reduction outcome.* The RBA indirectly supports this outcome by removing any disincentive the utility may have to decrease electricity sales.

*Electrification of Transportation outcome.* The RBA may indirectly support EOT insofar as increased EOT would help to cover the utility’s fixed costs and put downward pressure on rates (assuming it is not necessary at the same time for the utility to spend on expensive EOT assets).

**M. Comment on Electrification of Transportation Outcome (“EoT”) and Proposed EoT PIM.**

Finally, Uluono offers a comment and proposal regarding the Companies’ performance as to the EoT outcome. It is submitted that the Companies have not made sufficient

progress is achieving the EoT outcome, as evidenced in part by the Companies' recent withdrawal of its EoT application in Docket No. 2021-0173. Ulupono therefore proposes that the Commission provide an opportunity for reconsideration and adoption of its proposed EoT PIM in Phases 5 and/or 6 of this proceeding.<sup>32</sup> The EoT PIM expressly complements the RPS-A PIM and incentivizes benefits across both the electric and transportation systems through PIM rewards, thereby strongly supporting the achievement of PBR goals and outcomes based on the attributes of EVs. In addition, growth in EoT stimulated by the PIM will benefit all utility customers, whether or not they own an EV, insofar as the RBA) results in lower prices when there are increases in decoupled electricity sales.

### **III. CONCLUSION**

For all of the foregoing reasons, Ulupono respectfully requests the Commission to issue an order consistent with the foregoing discussion in this Brief, and to grant any further relief the Commission deems just and proper.

DATED: Honolulu, Hawaii, May 5, 2025.

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<sup>32</sup> See Ulupono Initiative LLC's Post-Hearing Brief filed Oct. 19, 2020 (Docket No. 2018-0088) at 21-23 (describing Ulupono's proposed Electrification of Transportation ("EoT") PIM and summarizing the record in support of adoption of the EoT PIM).

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF HAWAII

In the Matter of

DOCKET NO. 2018-0088

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate  
Performance-Based Regulation.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date a copy of the foregoing document was  
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