

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION) (NON-DOCKETED)
)
Commission Suspension of Termination)
or Disconnection of Services Due to)
Non-Payment Related to Maui Wildfires)
and Directing Affected Maui Utilities)
to Pursue All Available Aid.)
_____)

ORDER NO. 40218

DIRECTING MAUI UTILITIES TO SUSPEND TERMINATION OR DISCONNECTION
OF REGULATED UTILITY SERVICES DUE TO NON-PAYMENT AND/OR
ASSESSMENT OF OTHER CHARGES THROUGH OCTOBER 17, 2023, AND
DIRECTING AFFECTED MAUI UTILITIES TO PURSUE ALL AVAILABLE AID

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OF THE STATE OF HAWAII

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Commission Suspension of Termination) ORDER NO. **40218**
or Disconnection of Services Due to)
Non-Payment Related to Maui Wildfires)
and Directing Affected Maui Utilities)
to Pursue All Available Aid.)
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DIRECTING MAUI UTILITIES TO SUSPEND TERMINATION OR DISCONNECTION
OF REGULATED UTILITY SERVICES DUE TO NON-PAYMENT AND/OR
ASSESSMENT OF OTHER CHARGES THROUGH OCTOBER 17, 2023, AND
DIRECTING AFFECTED MAUI UTILITIES TO PURSUE ALL AVAILABLE AID

By this Order, based on the extraordinary circumstances related to the August 2023 Maui wildfires ("Wildfires"), the Hawaii Public Utilities Commission ("Commission"): (1) directs that all Commission-regulated electric, gas, telecommunications, water, and wastewater public utilities located on Maui, or providing utility service on Maui ("Maui Utilities," or "Maui Utility," individually), suspend disconnections of electricity, gas, telecommunications, water, and wastewater services beginning from the date of the Governor's First Emergency Proclamation relating to the Maui Wildfires (i.e., August 8, 2023),¹ until

¹Acting Governor Sylvia Luke issued the First Emergency Proclamation Relating to Wildfires on August 8, 2023. Governor's

October 17, 2023 ("Suspension Period"), the expiration date of the Governor's 6th Proclamation,² unless otherwise ordered by the Commission and subject to the conditions discussed, below;

(2) suspends, pending further orders, during the Suspension Period, any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected

"First Proclamation Related to Wildfires," available at: <https://dod.hawaii.gov/hiema/governor-issues-emergency-proclamation-relating-to-wildfires/>. Since the Commission is issuing this order after August 8, 2023, the Commission directs utilities to reconnect any customer that has been disconnected during this time, through at least the Suspension Period, except in a situation where a Maui Utility has disconnected a customer's service for public safety concerns unrelated to non-payment of services (as discussed further, below).

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

²Governor Josh Green issued his office's Sixth Proclamation Related to Wildfires on August 19, 2023, effective through October 17, 2023, which supersedes his Fifth Proclamation Relating to Wildfires, issued on August 13, 2023. Governor's "Sixth Proclamation Related to Wildfires," available at: https://governor.hawaii.gov/wp-content/uploads/2023/08/2308060_Sixth-Proclamation-Relating-to-Wildfires-signed.pdf. The Commission will assess whether to extend the Suspension Period prior to October 17, 2023, and will issue an order addressing this prior to that date.

customers; (3) directs Maui Utilities not to charge customers interest on past due payments, or impose any late payment fees, through the Suspension Period; (4) authorizes each of these Maui Utilities to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense³) and to record receipt of governmental aid and donation-based aid, loans or grants, and/or all other assistance measures, and any cost savings realized, during the Suspension Period; and (5) discourages the filing of emergency or any temporary rate increases in response to the emergency situation during the Suspension Period, and during and after the Suspension Period, directs Maui Utilities impacted by the Wildfires to seek all available aid.

³By "incremental bad debt expense," the Commission refers to customer non-payment of bills that exceeds the amount a utility expects or allows for in base rates. The Commission understands utilities may use different terms for this expense.

I.

DISCUSSION

The Commission is charged with the duty of ensuring that public utilities provide service at just and reasonable rates.⁴ Additionally, the Commission has general supervisory powers “over all public utilities[,]”⁵ as well as investigatory authority “to examine into the condition of each public utility,” including “the fares and rates charged by it.”⁶

The Wildfires have “spread considerably and burned a number of structures in and around Lahaina,” resulting in a “significant loss of life and property in Maui County[.]”⁷ The Wildfires have also left “thousands of people without adequate shelter[.]” The town of Lahaina has been “destroyed[.]”⁸

In view of these extenuating circumstances, during the Suspension Period, the Commission: (1) directs that all Maui Utilities suspend disconnections of electricity, gas,

⁴Hawaii Revised Statutes (“HRS”) § 269-16(a).

⁵HRS § 269-6(a).

⁶HRS § 269-7(a).

⁷Governor Green’s “Sixth Proclamation Relating to Wildfires,” was issued on August 19, 2023, and is available at: https://governor.hawaii.gov/wp-content/uploads/2023/08/2308060_Sixth-Proclamation-Relating-to-Wildfires-signed.pdf (“Sixth Proclamation”). Sixth Proclamation at 1.

⁸Sixth Proclamation at 1.

telecommunications, water, and wastewater services, unless otherwise ordered by the Commission and subject to the conditions below; (2) suspends, pending further orders, any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers; (3) directs Maui Utilities not to charge customers interest on past due payments, or impose any late payment fees; and (4) authorizes each of these Maui Utilities to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense) and to record receipt of governmental aid and donation-based aid, loans or grants, and/or all other assistance measures, and any cost savings realized, during the Suspension Period.⁹

The Commission will assess, in appropriate future proceedings (i.e., rate case, application for cost recovery, etc.), whether each Maui Utility's request for recovery of these

⁹The Commission notes that on August 12, 2023, MECO, announced that it was suspending billing for 18,000 affected customers in West Maui: <https://www.hawaiianelectric.com/our-response-to-the-windstorm>. The Commission notes that, in the future, MECO will need to address whether it intends to collect any amounts due from customers that were pending prior to this suspension of billing.

Further, as noted above, the Commission distinguishes the deferral of costs related specifically and only to the suspension of disconnections authorized here, from MECO's request for cost deferral in its Docket No. 2023-0349 Application, and will also address this, as needed, in any orders regarding that Application.

regulatory assets is reasonable and necessary, as well as the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.

The Commission also directs that, during and after the Suspension Period, the Maui Utilities affected by the Wildfires to pursue all available aid, including but not limited to any federal funding. The Commission discourages requests for emergency rate relief or general rate increases during the Suspension Period.¹⁰ Imposing higher rates at this time on Maui customers, many of whom may have lost jobs, businesses, homes, and families, or who are housing or otherwise supporting displaced residents, would strain this community's limited resources. Further, in light of the possibility of other available aid, utilities should invest their efforts into pursuing this funding, rather than seeking increased rates from a customer base that may not have such funds at this time.

The Commission also urges the Maui Utilities to consider proactive actions that enable customers to pay their utility bills to the extent feasible during and after the Suspension Period, to

¹⁰The Commission distinguishes new emergency or general rate increase requests from the rate cases that were already pending before it at the time of the Maui Wildfires.

mitigate the risks of customer disconnection after the Suspension Period ends, and to facilitate utility financial integrity during the Suspension Period. For example, the Maui Utilities should prioritize educating customers by, among other things, identifying sources of available public and/or private aid that may be available to customers, such as the Low Income Home Energy Assistance Program (LIHEAP) and the Low Income Household Water Assistance Program (LIWAP).

Further, to the extent possible, the Maui Utilities should work with customers to coordinate payment plans, in efforts to prevent a customer from having to pay a future large lump sum bill following the Suspension Period. The Commission also encourages Maui Utilities to emphasize to customers the importance of energy efficiency and water conservation, which can help in reducing bills as well as the likelihood of disconnection following the Suspension Period.

II.

ORDERS

THE COMMISSION ORDERS:

1. Maui Utilities, beginning from the date of the Governor's First Emergency Proclamation relating to the Maui Wildfires (i.e., August 8, 2023) through October 17, 2023, shall (a) suspend disconnections of electricity, gas,

telecommunications, water, and wastewater services; and
(b) suspend any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers.

2. Each Maui Utility is authorized to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense) and to record receipt of governmental aid and donation-based aid, loans or grants, all other assistance measures, and any cost savings realized during the Suspension Period. Any Maui Utility that books regulatory assets consistent with the authorization provided in this Order, shall file a short report (1-2 pgs.) with the Commission within 30 days of issuance of this Order, regarding the status of the Maui Utility's provision of service to customers and any significant change in its customer base as a result of the Wildfires, current financial condition, and, as relevant, any information reportable pursuant to HRS § 269-9 regarding accident reports to the Commission, if the Maui Utility has not already filed such an accident report.¹¹

¹¹The Commission directs that even if a Maui Utility opts not to book regulatory assets pursuant to the authorization provided in this Order, the Maui Utility should still send a status update to the Commission, pursuant to this paragraph, within 30 days of the issuance of this Order.

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

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

5. Any Maui Utility that books regulatory assets consistent with the authorization provided in this Order, must also file a quarterly report, beginning on October 15, 2023 (for the quarter ending September 30, 2023), detailing the amounts of the incremental costs incurred and any savings realized, which have been booked to the regulatory assets. These quarterly reports should include: (a) updated information regarding status of the Maui Utility's provision of services to its customers, and any details regarding significant changes to its customer base;

The Commission issued non-docket Protective Order No. 40217 ("Protective Order") to govern a Maui Utility's filing of any confidential financial or business information included in these reports and the reports detailed in the Protective Order, provided that, consistent with UIPA, all information for which a Maui Utility claims confidentiality is supported by a description that: (1) identifies in reasonable detail the information's source, character, and location; (2) states clearly the basis for the claim of confidentiality; and (3) describes, with particularity, the cognizable harm to the filing party from any misuse or unpermitted public disclosure of the information, which the Commission will review.

(b) the Maui Utility's financial condition, (c) a list of the measures the Maui Utility has in place, if any, to assist its customers during the Maui Wildfire emergency situation, and (d) a discussion of the Maui Utility's education and outreach efforts to assist customers with continuing to pay their utility bills and mitigating any adverse impacts. A Maui Utility should inform the Commission in its quarterly reports if a previously-reported upon measure the Maui Utility had in place to assist customers has since been terminated, as well as a short description of the Utility's rationale for the termination of that measure.

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

7. The Commission also emphasizes that customers should continue paying their bills to the extent possible during the Suspension Period, but also states that it issues this Order to acknowledge that the Maui Wildfires have resulted in significant disruption to some customers' ability to make those payments.

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

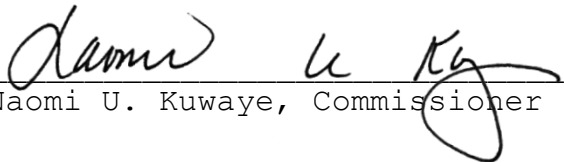
9. The Commission also directs Maui Utilities affected by the Wildfires to pursue all available aid, including federal

funding, during and after the Suspension Period. The Commission discourages requests for emergency rate relief or general rate increases through the Suspension Period. Further, the Commission urges the Maui Utilities, beyond the Suspension Period to continually educate customers as to any sources of possible aid, the availability of payment plans, and efforts to reduce bills through efficiency or conservation.

DONE at Honolulu, Hawaii AUGUST 31, 2023.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Leodoloff R. Asuncion, Jr., Chair

By 
Naomi U. Kuwaye, Commissioner

APPROVED AS TO FORM:


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Commission Counsel

By (EXCUSED)
Colin A. Yost, Commissioner

Non-Docketed Order.ljk

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