BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

ORIGINAL

In the Matter of the Application of)

HAWAIIAN ELECTRIC COMPANY, INC.) DOCKET NO. 2008-0083

For Approval of Rate Increases and)

Revised Rate Schedules and Rules.)

TRANSCRIPT OF PROCEEDINGS

VOLUME VIII

Public Utilities Commission hearing held on Wednesday, November 4, 2009, commencing at 9:03 a.m., at 465 South King Street, Honolulu, Hawaii, pursuant to Notice.

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REPORTED BY: TRISTAN-JOSEPH, CSR NO. 469

Certified Shorthand Reporter

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1 P R O C E E D I N G S
2 CHAIRMAN CALIBOSO: Good morning.
3 I'd like to reconvene this proceeding.
4 Again, my name is Carlito Caliboso, Chairman of the
5 Public Utilities Commission, joined by Commissioner John Cole
6 and Commissioner Les Kondo.
7 May I have the parties' appearances for the record,
8 please.
9 MR. WILLIAMS: Thank you, Mr. Chairman,
10 Commissioner Cole and Commissioner Condo, Thomas Williams and
11 Peter Kikuta appearing on behalf of Hawaiian Electric Company.
12 MR. ITOMURA: Good morning, Chair Caliboso,
13 Commissioner Cole, Commissioner Kondo, John Itomura on behalf
14 of the Consumer Advocate. With me is Executive Director Cat
15 Awakuni and Dean Nishina.
16 MR. MCCORMICK: Good morning, Chairman Caliboso,
17 Commissioner Cole and Commissioner Kondo, representing the
18 Department of Defense today are, myself, James McCormick, and
19 Dr. Kay Davoodi.
20 CHAIRMAN CALIBOSO: Thank you.
21 Before we proceed with closing arguments, we wanted
22 to have on the transcript a listing of all of the Hearing
23 Exhibits that each of the parties presented during the
24 hearings.
25 Are we prepared to do that?

1 We request to do that after closing arguments, if
2 you want to do that?
3 MR. WILLIAMS: I could do it from memory but
4 there's a risk.
5 CHAIRMAN CALIBOSO: Why don't we do that after
6 closing arguments then.
7 Mr. McCormick, you may begin.
8 MR. MCCORMICK: Thank you.
9 Mr. Chairman, Commissioners, the DOD submitted
10 three testimonies, three sets, in April of 2009 addressing
11 respectively revenue requirements, cost of capital, and cost
12 of service, cost allocation rate design issues.
13 As a result of evidence submitted by the DOD and
14 the Consumer Advocate, the parties settled many of their
15 issues in a Settlement Agreement filed May 15th, 2009.
16 That agreement is not perfect for any one party.
17 It is, as with most settlements, a compromise. The DOD feels
18 that the Settlement Agreement is fair and reasonable. It goes
19 a long way toward correcting problems that we saw in the
20 original rate proposal; particularly, in removal of interclass
21 subsidies.
22 Furthermore, the Settlement Agreement accepts many
23 of the risk-reducing mechanisms proposed by HECO. We
24 understand that the Commission is charged with reviewing and
25 approving any rate proposal, including agreements among the

1 parties.
2 DOD considers the agreement to be an integrated
3 package negotiated by the parties for a comprehensive and
4 balanced resolution of the specific issues associated with
5 revenue requirement and allocation of the rate increase.
6 We urge the Commission to adopt the terms of that
7 agreement in its decision. Therefore, in DOD's view, the only
8 significant remaining issues are advertising expense and cost
9 of capital.
10 DOD did not present evidence or present a position
11 on the advertising expense issue. That is not intended to be
12 interpreted as an agreement with HECO's or any other parties'
13 position on that issue. We leave it to the Commission to
14 decide what is the appropriate advertising expense allowance
15 for HECO in the State of Hawaii.
16 The significant issue for DOD is cost of capital.
17 The Commission has received much testimony, revised testimony,
18 and numerous exhibits on cost of capital. As is hugely the
19 case with this issue, witnesses disagree and come to various
20 conclusions. With that in mind, let me point out several
21 facts that may help the Commission resolve this issue.
22 First, DOD's expert was unable to appear for
23 reasons previously identified. HECO and the Consumer Advocate
24 graciously waived cross-examination of Steven Hill regarding
25 his prior testimony.

1 Nevertheless, Dr. Morin spent most of his rebuttal
2 testimony in trying to discredit the analysis of cost of
3 capital submitted by Mr. Hill. I would remind the Commission
4 that Mr. Hill has appeared in the past before this body and
5 his reputation and credentials are well-established in the
6 exhibits.
7 Dr. Morin claimed page after page that methods used
8 by Mr. Hill and the Consumer Advocate witness, Mr. Parcell,
9 were "inappropriate methodology" to determine cost of capital
10 accurately; yet, apparently, Dr. Morin found his own
11 methodology inappropriate and no longer yielded the results
12 HECO desired.
13 Submittals by and cross-examination of Dr. Morin
14 demonstrated that he, himself, used a new or partial revised
15 methodology each time he performed an analysis during this
16 case.
17 Whenever the facts or statistics changed, Mr. Morin
18 changed his analysis to preserve his original result, the HECO
19 result. For example, the Treasury bonds no longer provided
20 the long-term yield he needed after Dr. Morin readily switched
21 using utility bonds but despite the accepted practice to apply
22 Treasury bond rate.
23 Although, he criticized the DOD's witness'
24 approach, it is important to know the DOD's cross-examination
25 of Dr. Morin. Using the approach he himself used in his

1 original testimony, that applying the same underlying data and
2 numbers that Dr. Morin applied in his rebuttal and updated
3 testimonies. The result on return on equity figures were
4 similar to those recommend by DOD's witness Mr. Hill.
5 Specifically, Dr. Morin's original analytical
6 method using the more current data resulted in a 10 percent
7 ROE or with decoupling a 9.7 percent ROE as compared to
8 Mr. Hill's recommendation of 9.5 percent.
9 In other words, if Dr. Morin did not change his
10 methodology to achieve HECO's desired result, there might have
11 been an agreement on cost of capital.
12 I'm no expert on cost of capital. Dr. Morin
13 provide a summary table of RRAK rate cases for 2009 and it was
14 somewhat inaccurate as shown though cross-examination in its
15 admission of DOD hearing Exhibit 3.
16 During cross-examination it was shown that accurate
17 representation on HECO Exhibit -- excuse me, Hearing
18 Exhibit 7, page 18 of 18, a rates case involving decoupling
19 limited to those cases that actually addressed or decided
20 return on equity would result in an average ROE of 10.16 for
21 2009.
22 Finally, Dr. Morin admitted at one point Monday
23 during his examination by Chairman Caliboso that if all the
24 other risks redemption methods requested from the Commission
25 are approved, the HECO risk would be "average" for the

1 industry. That is probably conservative.
2 Mr. Parcell testified Monday that the total package
3 of adjustment mechanisms and procedures available or
4 contemplated in Hawaii are far greater protections and
5 generally available across the U.S.
6 Dr. Morin agreed yesterday saying that Hawaiian
7 Energy policy appears to be a "blueprint" for other states to
8 follow. Yet, as it has been his habit, Dr. Morin, yesterday,
9 introduced new factors that he now claims continue to increase
10 the risk.
11 The DOD sympathizes with the difficulty that's
12 faced by HECO. However, many states are suffering economic
13 hardships. Many states have high unemployments, some higher
14 than Hawaii. Utility commissions in all states are
15 undoubtedly aware of the increased problems of obtaining
16 capital, the stresses on financial markets, the volatility of
17 fuel prices and other such factors.
18 Utilities nationwide must comply with federal
19 mandates on energy production. Those factors were undoubtedly
20 considered as each of those commissions made their rate
21 decisions in 2009; and, yet, those same decisions regarding
22 return on equity and related matters did not differ
23 significant from 2008 and have been relatively stable over the
24 past five years as shown by the numbers provided in
25 Dr. Morin's own rebuttal testimony at page 6.

1 In fact, the 2009 cases show a decline for cases
2 involving decoupling to 10.16 ROE in accordance with DOD's
3 cross-examination of Dr. Morin.
4 Therefore, it is DOD's supported conclusion that
5 9.5 percent is a reasonable return on equity compared with
6 otherwise similar risks electric utilities; particularly,
7 given the several risk-reduction mechanisms requested by HECO,
8 agreed to by the parties and under consideration by the
9 Commission. That conclusion is borne out by retaining
10 Dr. Morin's own direct testimony analysis methodology updated
11 by applying a more accurate and current data he provided. He
12 did not dispute the resulting number during cross-examination.
13 Furthermore, Mr. Parcell testified yesterday that
14 if the ROE range were reduced in consideration of decoupling
15 with a value of 50 points a fair ROE would be near the
16 midpoint of the resulting 9.0 to 10.0 range.
17 All of the risk factors Dr. Morin identified prior
18 to yesterday are compensated, not only by decoupling, but also
19 by the ECAC and PPAC as well as the separate RAI proposal. We
20 agree with the Consumer Advocate's witness that the risks are
21 not going to be borne by HECO but by its ratepayers.
22 Therefore, a lower cost of capital allowance than average
23 would be appropriate in this case. Applying a 9.5 percent
24 equity capital cost to the Company's recent average capital
25 structure to produce an average overall cost of capital of

1 7.84 percent.
2 As we stated in our opening statement, this overall
3 cost of capital affords the Company an opportunity to achieve
4 a pretax interest coverage ratio of 4.71 or 4.71 one times.
5 That is well-above the level of interest coverage actually
6 achieved by HECO for the past five years which has averaged
7 3.4 one times.
8 In conclusion, we urge the Commission to approve
9 cost of capital numbers that will allow HECO a 9.5 percent
10 return on equity.
11 Thank you.
12 CHAIRMAN CALIBOSO: Thank you, Mr. McCormick.
13 Questions, Commissioners?
14 Mr. Itomura, for the Consumer Advocate?
15 MR. ITOMURA: Thank you, Chair, and thank you
16 Chairman Caliboso, Commissioner Cole and Commissioner Kondo.
17 As the Commission is well aware, the Consumer
18 Advocate is designated by law to participate in these rate
19 case hearings and proceedings to advocate in the best interest
20 of the ratepayer by balancing the financial well-being of the
21 utility.
22 While often a challenging task to accomplish, the
23 Consumer Advocate asserts that it has fulfilled its steps to
24 our goal.
25 First, the Consumer Advocate retained expert

1 consultants with significant regulatory experience and
2 knowledge who are familiar with the Utility Company to review
3 and analyze the requested relief, which led to various
4 recommended adjustments.
5 Then the Consumer Advocate worked closely with the
6 Utility and the Department of Defense to seek just and
7 reasonable resolutions on behalf of the ratepayers of numerous
8 2009 test year ratemaking components.
9 Finally, the Consumer Advocate put forth its case
10 for determination by this Commission under two unresolved
11 issues between the parties: The recovery and base rates for
12 informational costs and the determination of a reasonable cost
13 of capital. And its consultants were made available to the
14 Commission for these two unresolved issues as well as to
15 address other Commission questions.
16 HECO filed its application on July 3rd, 2008,
17 seeking a 97 million increase over present rates. The
18 Consumer Advocate initially recommended adjustments that
19 lowered the rate increase to $62.7 million. However, there
20 were extensive discussions and negotiations on all issues the
21 Consumer Advocate entered into a settlement with HECO and the
22 Department of Defense for 79.8-million-dollar-rate increase
23 based upon a 10.5 return of equity and a rate of return on
24 rate base of 8.45 percent with specific coordinating
25 adjustments for HCEI-related impacts.

1 Where settlement was not possible, we left for the
2 Commission a determination the appropriate rate treatment of
3 information advertising and the cost of capital issues.
4 The Consumer Advocate is confident that the
5 79.8-million-dollar number is a ceiling for recovery, noting
6 that HECO has accepted this revenue that was adequate to meet
7 its overall financial needs and supports the Commission
8 approval of the parties settlement positions.
9 The Consumer Advocate responded with additional
10 oral testimony throughout the panel hearings to answer the
11 Commission's questions seeking clarification on issues
12 included within the settlement entered into with the Company
13 and the Department of Defense and presented with in-panel
14 discussions.
15 The Consumer Advocate appreciates the Commission's
16 intent to fully understand those issues and will seek to
17 provide any necessary clarifications within its post-hearing
18 briefs.
19 Specifically, with regards to the HCEI
20 consideration, the Consumer Advocate does acknowledge the
21 Commission's concerns related to consideration by the parties
22 of HCEI mechanisms and expenses within the context of this
23 rate case prior to Commission approval for such programs and
24 expenses.
25 We removed certain nonlabor costs for a HCEI

1 surcharge recovery under agreement with HECO placing HECO,
2 rather than ratepayers, at risk for such recovery until the
3 HCEI mechanisms are formally approved. We continue to
4 encourage the Commission to not provide separate recovery for
5 any labor costs as a complexity and controversy of attributing
6 specific labor hours or positions between base rates and
7 surcharges is easily avoided.
8 Most of the more challenging issues in this docket
9 are due to extraordinary times and conditions and the Consumer
10 Advocate realizes that traditional methods of utility cost
11 recovery and the challenge of preserving the financial
12 stability of the utility or providing reliability and
13 environmental benefits to consumers, may require a shifting of
14 administrative burdens to revenue replacement process
15 incorporating creative mechanisms to replace the otherwise
16 inevitable more frequent rate cases.
17 Thus, while it shifts some of the burdens from the
18 Utility to the ratepayer, the HCEI agreement was a starting
19 point for the overall regulatory model that was discussed and
20 agreed to in settlement analysis to balance the interest of
21 the consumers and the company.
22 On the other hand, the parties to the Settlement
23 Agreement recognized that incremental rate relief from
24 decoupling or CEI surcharges was uncertain and subject to
25 future Commission approval; and, for this reason, the

1 Commission should recognize the Settlement Agreement is not
2 contingent upon these other matters.
3 All of the expenses included in the Settlement
4 related to HCEI or for items that were approved by the
5 Commission; that is, the parties took heed of the Commission's
6 admonition in its April 2009 letter and limited those expense
7 amounts, included in the Settlement, to those items that
8 relate to normalized levels of expense and not to those items
9 in HCEI that could not be reserved to a later date.
10 Your order in this case can and should implement
11 rates for HECO while preserving your decisions in the other
12 dockets for the future.
13 Specifically, related to CT-1, the Commission's
14 concerns over CT-1 is also recognized. The Consumer Advocate
15 testified that CT-1 is not technically and fully used and
16 useful due to the Commission's determination that CT-1 shall
17 not be dispatched until a hundred percent reliance on biofuel
18 is achieved.
19 However, the Consumer Advocate also represented
20 that it supports the Company's arguments related to the need
21 for CT-1 to maintain a reliable system in the event of an
22 emergency and to adjust peak-load concerns and/or that plant
23 held for future use may be an interim classification for cost
24 of the unit.
25 While the Consumer Advocate has not had an

1 opportunity to review the cost variances that became known
2 after the filing of its direct testimonies and reserve its
3 rates to fully review such amounts in another proceeding, the
4 Consumer Advocate does support the levels of CT-1 included in
5 the Settlement; mainly, the average test year amount or half
6 of the approximate $163 million, as set forth in the
7 Settlement, which would charge ratepayers only one-half of the
8 investments that's included in average rate base.
9 With the contested issues, first, informational
10 advertising with respect to the attempt by the Company to seek
11 $1.148 million recovery in rate base for information on
12 advertising, the Consumer Advocate has clearly demonstrated
13 that it's 774,000-dollar reduction adjustment is appropriate.
14 HECO has not spent over $1 million per year on
15 general utility advertising in any recent year outside of its
16 DSM and RCEA programs. HECO is seeking a replacement for the
17 RCEA program funding that was recently rejected by the
18 Commission.
19 As considered in prior dockets before this
20 Commission, the issues related to informational advertising or
21 whether HECO would be able to determine the effectiveness of
22 the proposed informational advertising program in terms of
23 accomplishing the program objectives and whether the proposed
24 program was cost-effective in meeting such program objectives.
25 Similar to the proposed energy efficiency

1 advertising campaign in the instant docket, HECO's proposed
2 RCA pilot DSM program was intended be an educational program
3 seeking to increase residential customers' awareness in order
4 to illustrate the need for conservation as a necessary goal in
5 and of itself rather quantify potential dollar savings.
6 In Docket 050069, HECO stated that the primary
7 objective of the RCA program is to determine if an aggressive
8 customer communications program can result in significant
9 energy savings and peak=load reduction. When asked, at that
10 time, to quantify the expected levels of achievement in
11 reducing peak load, HECO admitted that they did not have
12 definitive energy savings and peak-load reduction numbers in
13 mind. The same holds true in this docket.
14 Here, as in the prior docket, HECO failed to prove
15 that its proposed advertising programs will be cost-effective
16 and provided needed public awareness for conservation and
17 energy awareness. The burden of determining program
18 effectiveness is heightened by the fact that the Commission
19 has already contracted with the third-party Public Benefits
20 Fund Administrator to achieve the identical objectives; and,
21 the SAIC has separately planned and budgeted for needed
22 advertising that appears to be duplicative of what HECO was
23 requesting.
24 In these difficult economic times, allowing the
25 Company to spend a significant sum such as over $1 million,

which might be larger duplicative of efforts by SEIC, appears to be a waste of ratepayers' money. The Consumer Advocate recognizes that some recurring information on advertising is a necessary part of utility service. Therefore, the Consumer Advocate's approach of averaging the amounts spent on utility advertising outside of DSM and RCEA over the past three years is appropriate and reasonable.

With respect to the cost of capital issue, with the exception of an updated adjustment to the Company's reported cost of long-term debt of 5.1 percent due to amended net proceeds at a lower interest rate, the parties are in agreement on the costs of various components of the Company's capital structure.

The lone remaining issue is the cost of common equity. The Commission is faced with a daunting challenge. The determination of ROE can already been challenging, but with all of the balls in the air related to HCEI and other regulatory matters, the determination of ROE in the instant proceeding is made even more complex.

The Consumer Advocate noted that the Company's pattern of requesting a lower ROE for each of the past three rate cases: 11.5 percent for Docket No. 2004-0113, 11.25 percent for Docket No. 2006-0386; and, 11 percent in the instant docket.

The Company's witness has lowered his ROE

1 recommendation by 25-basis points to 11.0 percent without
2 decoupling and 10.75 percent with decoupling. At the time of
3 HECO's initial testimony on the cost of capital, HECO was
4 proposing 11.25 percent. HECO clearly understands the
5 reasonableness of a downward risk adjustment.
6 HECO's own Hearing Exhibit No. 8 reflects an
7 average of 10.5 with one utility steering the average upwards
8 due to an 11.5 ROE. The recent decline in cost rates of debt,
9 since the Company's application for a rate increase was filed
10 and the cumulative impact of merely proposed HCEI sales and
11 cost recovery mechanisms, if approved by the Commission,
12 warranted a significant downward adjustment to authorize
13 returns within the range proposed by the Consumer Advocate and
14 no higher than 10.5 percent, the ROE that was perceived to be
15 appropriate for purposes of settlement for the Company.
16 Both the Company's and the Consumer Advocate's
17 witness were fairly consistent regarding the subjectivity
18 associated with the determination of the cost of common equity
19 and especially with the necessary determination of the
20 adjustment to reflect a shifting of risks from shareholders to
21 the ratepayers if any or all of the requested cost recovery
22 mechanisms are allowed.
23 The witnesses provided their technical analysis,
24 but the Commission must make the requisite policy decisions to
25 actually select the appropriate value and the Consumer

1 Advocate contends that given the possible magnitude of the
2 risks that might be shifted, depending on the Commission's
3 decisions and adjustment of 50-basis points is reasonable.
4 The Consumer Advocate's recommended range reflects
5 a reasonable spectrum of value points for the Commission's
6 consideration. If any of the various cost recovery mechanisms
7 that are being proposed are allowed, each mechanism will
8 certainly affect the Company's risk.
9 The reduction of risks will affect the
10 determination of ROE such that of value from the lower end of
11 the range should be deemed preferrable. Due to the relative
12 companies with similar mechanisms already in place, the
13 Commission's task of determining the appropriate adjustment is
14 complex; but, based on questions asked, the Consumer Advocate
15 is confident that the Commission appreciates the complexity of
16 the matter and will give the appropriate consideration to this
17 decision.
18 In summary, the Consumer Advocate respectfully
19 offers that relying upon the evidence that was already
20 available at the time, the settlement reached among the
21 Company, the Department of Defense, and the Consumer Advocate
22 reflected a reasonable balance of many various positions
23 but-for two unresolved issues.
24 Since the time of Settlement, additional
25 information has become available for the Commission's

1 consideration. Some of that information may cause questions
2 regarding reasonableness of the settlement such as the most
3 recent estimate of construction costs for CT-1.
4 Generally, the Consumer Advocate still contends
5 that the settlement was reasonable and asserts that its
6 consultants offered oral testimony supporting that contention.
7 That being said, the Consumer Advocate acknowledges
8 that additional more recent information can support the
9 Commission's findings and conclusions in its interim rate
10 order and can find that those were not in error with the
11 exception of the excluding elements of decoupling as proposed
12 and considered by the parties in reaching settlement.
13 The Commission is faced with a challenging task in
14 reaching its decision in current difficult economic times and
15 needing to balance the reasonableness of the party's interest.
16 The Consumer Advocate contends that it has offered significant
17 amounts of analysis and valuable testimony for the Commission
18 to consider.
19 The Consumer Advocate appreciates the opportunity
20 to appear before this Commission to facilitate the
21 Commission's deliberations and has confidence that the
22 Commission will weigh and consider the Company's request and
23 how best to share the pain given the current conditions and
24 circumstances.
25 Thank you.

1 CHAIRMAN CALIBOSO: Thank you, Mr. Itomura.
2 Any questions, Commissioners?
3 COMMISSIONER KONDO: May I ask a clarifying
4 question, Mr. Chair.
5 You know, in your summary, you made a comment, I
6 think, that said that the evidence after the settlement
7 supports the Commission's interim decision with the exception
8 of decoupling. I didn't understand what that meant or maybe I
9 misunderstood what you said.
10 MR. ITOMURA: The intention of that comment is that
11 the Consumer Advocate is requesting approval of the interim
12 decision order with the fact that the Consumer Advocate took
13 it to mind decoupling matters as already approved by the
14 Commission, not those matters that have not been approved by
15 the Commission.
16 COMMISSIONER KONDO: Maybe I'm confused.
17 The decoupling matters that have been approved by
18 the Commission, what are those?
19 MR. ITOMURA: Well, I misspoke. But, as I
20 mentioned in the summary, that there's some normalized costs
21 that were taken into account in reaching settlement and those
22 numbers are considered and put into the interim rate order.
23 That's the specific reference and nothing that was outside or
24 any of those matters that the Commission sought to identify to
25 the parties is not to include in any going forward with the

1 final decisioning order.
2 COMMISSIONER KONDO: So did I misunderstand what
3 you said in the sentence during your summary about the interim
4 order being supported, but I thought you had a "with the
5 exception of." It was in the last four or five sentences that
6 you were on, I think. I heard decoupling and I was trying to
7 understand what that meant and maybe I misheard.
8 MR. ITOMURA: Well, without going to the specifics
9 of what -- I can't find it readily here.
10 Commissioner Kondo, if I did need you to believe
11 that there are elements of decoupling considered, the point
12 was intended to be that the Consumer Advocate understands that
13 the decoupling matter still needs to be decided; and, but-for
14 those matters, the Consumer Advocate would support approval of
15 the numbers provided in the interim rate order.
16 COMMISSIONER KONDO: All right. Thank you for the
17 clarification.
18 CHAIRMAN CALIBOSO: Mr. Itomura, just one
19 clarification as well.
20 For informational advertising, you had mentioned
21 that some expenses are reasonable, which you're proposing, and
22 you got those expenses by averaging the last three years.
23 Judging from the Company's witnesses, they will
24 probably argue that the actual numbers in the 2009 test year
25 should also be considered in that mix in that averaging.

1 What is your argument for not including the actual
2 numbers for the 2009 test year?
3 MR. ITOMURA: Without specifically consulting with
4 the witness on that matter, the point being that, for purposes
5 of looking through the test year numbers, it was looking back
6 at the actuals and averaging the actuals.
7 CHAIRMAN CALIBOSO: And I understand that.
8 So the Consumer Advocate is not using the actuals
9 that we have so far in 2009.
10 And my question is, What is the Consumer Advocate's
11 argument for not including the actual 2009?
12 MR. ITOMURA: Short of the argument being that the
13 Consumer Advocate seeks to eliminate all costs that would be
14 duplicative of the HCEI efforts and mainly efforts that
15 resemble very closely to the RCEA advertising effort, again,
16 those numbers, I don't have those numbers at the top of my
17 head.
18 If similar to general utility advertising costs
19 compared to the last three years, the Consumer Advocate would
20 have no objections to those numbers; but, again, that would be
21 conditioned upon the fact that the actual numbers used from
22 the prior three years were identified and determined to be
23 those generally utility advertising costs minus RCEA type
24 advertising costs.
25 CHAIRMAN CALIBOSO: Okay, thank you.

1 COMMISSIONER KONDO: I'm sorry, Mr. Itomura, could
2 I ask you another clarifying question?
3 Okay. I understood our earlier discussion that the
4 Consumer Advocate, absent of putting aside the decoupling
5 issues that the Commission still has to resolve, the Consumer
6 Advocate was supportive of the interim order; is that right?
7 MR. ITOMURA: Correct.
8 COMMISSIONER KONDO: Can you explain to me, because
9 it seems, to me, that position is inconsistent with the
10 Consumer Advocate's position relating to CT-1, which is part
11 of the settlement the interim order took out CT-1; and, from
12 your closing, I thought that you still in the Consumer
13 Advocate's position, was CT-1 was still something that the
14 Company should get rate relief for.
15 But, maybe I misunderstood your earlier part of the
16 closing, but it seems, to me, that those positions are
17 inconsistent.
18 Could you enlighten me?
19 MR. ITOMURA: You're correct in that the Commission
20 excluded costs related to CT-1 and the clarification would be
21 that the Consumer Advocate would support the cost initially
22 provided in the Company's application related to CT-1 up to
23 the 163 million.
24 COMMISSIONER KONDO: So the Consumer Advocate then
25 is not supportive of the interim order?

1 MR. ITOMURA: Specifically, on that order, correct.
2 We do support the addition of CT-1 up to 163 million.
3 COMMISSIONER KONDO: Thank you.
4 MR. ITOMURA: Thank you.
5 CHAIRMAN CALIBOSO: So if there are no other
6 questions, we will go to Mr. Williams.
7 MR. WILLIAMS: Thank you, Mr. Chairman and
8 Commissioners. Thank you for the opportunity to address the
9 Commission with our closing statement.
10 It's been an interesting and occasionally
11 grueling -- as I said, it's been an interesting and
12 occasionally grueling; and, by that, I'm talking about the
13 temperature in the hearing room of seven days.
14 But before I go into the details of the outstanding
15 issues, I would like us all to step back for a minute and put
16 this case in perspective.
17 We have a historic opportunity to take steps now
18 that will help make Hawaii's renewable and clean energy future
19 a reality. High energy prices generated by high oil prices
20 are not desirable, but they also generated a huge amount of
21 interest by third parties in developing renewable energy
22 projects in Oahu and it helped to drive home our message to
23 customers that energy efficiency is important.
24 The DOE has helped to make Hawaii's ground zero for
25 developing renewable energy in the United States by providing

1 money and expertise; but, this opportunity will not become a
2 reality unless we address the challenges standing between us
3 in that reality. We cannot achieve that reality with a
4 financially weak utility and that's what we have now.
5 Mr. Parcell's information helped to drive that
6 home. At the present time there were 38 utilities with S&P
7 ratings that are higher than that of the Company, 10 others
8 were the same and 11 were lower.
9 The utility is on a downward negative watch,
10 negative outlook. If that negative outlook becomes a
11 downgrade, there will be 49 utilities that have a better
12 rating. They'll only be five that have the same and only six
13 that have a lower rating. That would include companies like
14 Nevada Power, which Mr. Parcell indicated were undergoing
15 very, very difficult times as a result of inability to access
16 capital markets.
17 I think the second important point to recognize is
18 that we cannot achieve that reality unless we're on the same
19 page as to what we need to do. Clearly, if the Commission is
20 on page 1 and we're on page 2, we need to get on page 1.
21 If you're still deciding whether the right page is
22 page 1, 2, or 3, it's going to be hard for us to be on the
23 same page; so, we need to work together with you and the
24 Consumer Advocate to make sure we know what that page is.
25 Finally, if page 1 is the right page, and we don't

1 have the resources to get there, we won't be able to get there
2 regardless of what our intentions are; and, I think that's the
3 backdrop. There's another backdrop that the Commission has
4 raised and it's the current recession we're in; and, that's a
5 very important issue as well, and I'm going to get to that in
6 a minute.
7 Now delving into the specific issues, there are two
8 contested issues, but I'm going to spend very little time on
9 that. I need to spend time on the issues raised by the
10 Commission. The witnesses have done a pretty good job on the
11 issues themselves. I'll briefly mention them; particularly,
12 with rate of return.
13 The number one issue, from our standpoint, is
14 getting timely rate relief for CT-1.
15 The number two issue is getting adequate rate
16 relief for CT-1; but, clearly, CT-1 is at the top of the list.
17 There are other important issues.
18 What is the appropriate return on common equity
19 with and without cost recovery mechanisms?
20 What should we do with the labor costs for the ACI
21 positions?
22 Should merit salaried levels really be reduced to
23 2007 levels, the elimination of the employee discount, the
24 informational advertising issue that was briefly touched on
25 this morning, the Power Adjustment Clause and certain other

1 rate design issues that were the subject of one of the panels,
2 whether there should be targeted management audits; and,
3 importantly what should be the final revenue requirements in
4 light of the Settlement and light of the interim D&O in light
5 of the issues discussed during the course of the hearing.
6 And then there are some important regulatory issues
7 to be addressed, including what is the priority of resolving
8 these challenges that we face, whether it's CT-1, whether it's
9 decoupling, whether it's the Power Purchase Adjustment Clause,
10 whether it's the REIP surcharge; and, I'll attempt to address
11 that one. So I'm going to focus on CT-1 ROE final revenue
12 requirements and our priorities; and, if I have time, I'll
13 touch on those other issues.
14 On July 3rd, the interim decision in order rejected
15 interim relief for CT-1. The basis for that rejection
16 appeared to be twofold: One, that the unit was not, in fact,
17 in service at the time; and, two, I'll call it a foreshadowing
18 that we would have no biofuels available to us. And then on
19 August 5th in the Imperium docket, the Commission rejected the
20 biofuels contract.
21 We do not want to be in this position and even more
22 importantly we do not want to put the Commission in the
23 position of choosing between the Company's financial health
24 and insuring that the unit is biofueled per the Company's
25 commitment to biofuel the unit.

1 It is our responsibility to convince you that we
2 are doing everything within our power to biofuel this unit.
3 If we cannot convince you, that's "our bad," using someone
4 else's words. It was for that reason that Hawaiian Electric
5 moved expeditiously to rebid the contracts; but, yet, the test
6 fuel contract before you; and, to take the risk of purchasing
7 that biofuel supply even without prior Commission approval.
8 The Company cannot, at this point, redo the Imperium contract.
9 All it can do is show its good faith in every way it can.
10 Reading these decisions together, we read them to
11 say that the Commission will not support the inclusion of CT-1
12 in rate base unless it is actually installed and running and
13 there is evidence of a secured biofuels supply.
14 The Commission can take a couple of paths. The
15 first would be to say that the Commission now believes that
16 the Company has gotten the message and taken the proper steps
17 with regard to biofuels and, therefore, the test year CT-1
18 capital costs and associated expenses identified in the
19 Settlement Agreement can now be included in rates.
20 Another path would be for the Commission to take
21 any one of several dates relating to CT-1's biofueling
22 commitments, such as the October 2nd date when we submitted
23 the test biofuel's contract; or, October 6th, when we
24 purchased the first set of biofuel; and, in either case, say
25 that the Commission is now satisfied that the project will

1 proceed as agreed upon.
2 If the Commission chooses to pick an alternate and
3 later date for the purposes of used and useful, then the
4 Company should be allowed to earn AFDUC from the period of
5 August 3rd when it stopped accruing AFDUC on the generating
6 component to the Commission's designated used and useful data
7 so we achieve that date.
8 Let me walk through the details of how these
9 alternatives work.
10 Number one, the generating unit is intended to
11 provide three significant attributes. The first is to address
12 the reserved margin short of the situation. CT-1 is connected
13 to the grid and available to serve customers and circumstances
14 permitted by the PUC.
15 Number two, to provide Black Start capability in
16 the event of an islandwide blackout. The testimony in this
17 case is the Black Start units are now available to provide
18 biofuel peaking generation. We don't have the biofuel yet.
19 We have the first two of the attributes and are
20 well on our way to the third. So, again, there are three ways
21 the Commission can allow the Company to earn a return on its
22 investment now.
23 First it could approve a second interim now on the
24 basis that the unit is included in plant and service and as
25 used or useful given the first two attributes.

1 The amount of the second interim would be
2 13 million, which includes the rate base related revenue
3 requirements of 11 million and expense related requirements of
4 about 2 million; and, that's based on the average costs for
5 CT-1 and limiting that cost to 163 million, and I'll walk
6 through that in a minute.
7 This alternative would recognize that a primary
8 reason for expeditiously adding the unit was to address the
9 critical reserve shortfall situation that faced us and the
10 unit is now capable of addressing that situation; and, there
11 shouldn't be any question about the need for the unit.
12 In your decision approving expenditures for CT-1,
13 the Commission -- this is a quote -- The Commission first
14 recognizes the dire need for additional generation due to the
15 reserve capacity shortfall based by (inaudible) years. In
16 fact, as stated above, all parties agree to the additional
17 generation is needed on HECO's system.
18 The Commission also finds that the need is
19 immediate and the project must be installed by July 2009 or as
20 early as possible as requested by HECO, and we actually
21 installed it by August 3rd, which, in light of recent
22 projects, is about as close to that date that you can get.
23 It's still needed. I think the Consumer Advocate
24 pointed out the obviate certainties as to forecasts and the
25 results of the peaks in October validated the Consumer

1 Advocate's comments, and we had much higher peaks in October
2 than our recent forecasts have indicated.
3 There is case law, and we have presented it, that
4 shows regeneration help for reserve standby on an emergency
5 capacity can be used or useful for utilities purposes; and,
6 it's well-established that property of it services, for
7 current and future needs, should be included in rate pay.
8 There are numerous examples where other utility
9 commissions have allowed costs. I admit that none of them
10 deal with the unique situation we have here with the biofuel
11 situation; but, I would like to read from one of nose
12 decisions, because it shows how strongly commissions tend to
13 support the inclusion of these costs in rate pays.
14 This is from an Oregon PUC decision in 1984, where
15 it was argued that a generating unit should be excluded from
16 rate base because it had come online during an energy surplus,
17 and the Commission found that that would be unsound to exclude
18 it from a regulatory policy standpoint, and to quote that
19 commission, Specifically, the argument ignores not only the
20 public service obligation of utilities but also the realities
21 of resource planning and the adverse financial consequences
22 that would inevitably ensue for the utility and its
23 ratepayers.
24 This is the commission speaking about the utilities
25 here. Under current economic conditions the time necessary to

1 complete construction of a major generating facility ranges
2 from six to twelve years. This was for (inaudible), but the
3 online date of a plant happened to coincide with a energy
4 surplus, the project would assign all cost responsibility to
5 the utility shareholders regardless of whether the original
6 decision to construct the plan was reasonable and prudent.
7 This approach to ratemaking would have extremely
8 undesirable consequences. The risk of holding utilities
9 securities would increase substantially, reducing stock prices
10 and bond ratings and resulted in much higher capital costs.
11 The likelihood of energy shortage would also
12 increase because of the reluctance of utility management to
13 assume absolute responsibility for the timing of new
14 generating facilities. Under either scenario, the impact upon
15 customers would be the same. Higher utility rates because of
16 an unstable regulatory environment.
17 Now the second option would be to approve a second
18 interim now on the basis that the unit has property held for
19 future use because an operational supply of biofuel is not yet
20 here. Under this option, depreciation would not start until
21 2011, assuming you get biofuel next year. The issue you have
22 to face if you do it as property held for future use, but
23 you've pretty much addressed the issue that you would have to
24 address.
25 The third option would be to continue to include

1 the costs in construction work in progress and accrue AFDUC
2 now until an operational supply of biofuel is obtained; and,
3 then allow a second interim later when the supply of biofuel
4 is obtained.
5 And this would be consistent with the Kahaloa
6 treatment in the 1990 test year rate case where, pursuant to a
7 Consumer Advocate's suggestion, even though the unit moved to
8 outside of the test year and there was an outside test year
9 step increase --
10 CHAIRMAN CALIBOSO: Could you just --
11 MR. WILLIAMS: -- but that was under a Power
12 Purchase Agreement.
13 CHAIRMAN CALIBOSO: Could you just repeat the third
14 option, again?
15 MR. WILLIAMS: Yes.
16 The third option would be to continue to include
17 the costs in Construction Work In Progress -- we call it CWEP
18 -- and accrue AFDUC now until an operational supply of biofuel
19 is obtained and allow a second interim later when the supply
20 of biofuel is obtained per the Kalaeola precedent in a 1990
21 test year rate case.
22 And we intend to spell out these options in more
23 detail in a motion; and, we will also intend to include that
24 in detail that there is substantial precedent for issuance of
25 a second interim rate increase in Hawaii rate cases.

1 And we intend to take the position that, at this
2 time, the amount included on rate base should be based on the
3 163 million rather than the 193 million and it should be based
4 on the average costs rather than the total costs, but that
5 basing it on an average costs instead of total costs -- or
6 instead of the full costs, depends on having a ratemaking
7 mechanism, in this case, a RAM mechanism that would allow us
8 to recover the second half of that costs. If there is no RAM
9 mechanism adopted, then the utility would need to be able to
10 move toward an interim that included the second half of the
11 CT-1 clause and, in effect, that would be a third interim.
12 So we understand that the Commission has not made
13 its decision yet on the availability of the RAM. We will be
14 filing something in the decoupling docket to try to at least
15 get that going on an interim basis as well; but, if it does
16 not become available, we do need a mechanism to recover the
17 second half of the CT-1 costs. It simply doesn't make sense
18 to try and push a 2010 rate case into the picture when we have
19 a 2011 rate case, and we can't go until 2011 recovering only
20 half the costs of CT-1.
21 I think that's consistent with their Settlement
22 because the settlement was premised on our joint proposal with
23 the Consumer Advocate that we would have a RAM mechanism and
24 that that RAM mechanism would be the vehicle to recover the
25 other half of the costs of CT-1.

1 Even under any of these options, the 30 million
2 difference between 163 and 193 would not be recovered until
3 the time of the 2011 rate case; so, we would be foregoing that
4 amount, and I think that's about 6 million a year -- no,
5 that's about 4.5 million.
6 What about the CT-1 clause? I've briefly touched
7 on that. We did submit a detailed explanation of the costs in
8 the testimony submitted in this proceeding and in the costs
9 report in Docket 050134. I don't think there should be any
10 real issue regarding the 163 million. I think the evidence
11 does not suggest that the Company incurred costs for the
12 project that it should not have incurred or that could have
13 been prudently avoided.
14 If the Company had known that the actual costs ould
15 be higher than the outcome, it really would not have changed
16 because of the drivers for the higher costs would have
17 impacted the costs for the other alternatives in the same
18 manner.
19 There was a question as to whether there should be
20 further review of the prudence of these costs. As the record
21 demonstrates, the Commission agrees that the costs were
22 underestimated rather than prudently incurred and wants to
23 examine the capital budgeting and project approval processes.
24 There are different ways to approach that, as we
25 discussed, including a targeted audit process, and we would

1 support that.
2 THE COURT REPORTER: Could you, please, place the
3 microphone closer to you, Mr. Williams.
4 MR. WILLIAMS: Okay. I just have my book in the
5 way here.
6 THE COURT REPORTER: Thank you, sir.
7 MR. WILLIAMS: I would also note that to improve
8 costs certainty essentially requires spending more time and
9 money earlier to complete more engineering design. That was
10 not really an option with respect to the CT-1 because PUC
11 approval was a critical path and the application could not be
12 delayed to do that; also, the changed circumstances with
13 respect to market conditions for construction contracts and
14 for the costs of equipment and materials used in the
15 construction process, which affected projects all over the
16 country, were not known until late in the process. So it
17 would be very difficult to give you a really good cost
18 estimate at the beginning of the process with respect to CT-1.
19 But, again, we agree that the process of estimating
20 the costs definitely needs to be improved. It doesn't do us
21 any -- it's not any benefit to us to have updated our cost
22 estimate for CT-1 to 163 million and then incur 193 million of
23 costs and not be able to get that difference into the rate
24 case because it's too late to do another update. That's
25 definitely not something management wants to have happen here;

1 so, we support the process of finding a way to improve that
2 process.
3 I did past out HECO S1701 and the reason for doing
4 that was to show you what this average cost would be. Some of
5 the land acquisition and land rights were actually acquired in
6 2008, so they're in the year, they would be in the test year
7 for the full year. That's the 4,857,000 and the 1,261,000, as
8 well as the property held for future used of 1,809,000; and,
9 then the other, then you add to that the total of that's
10 7.9 million, you add the total of 163.3, so the average amount
11 is actually 86.7, which means that when you get the second
12 half of it, it's not really -- it's part of the second half
13 and would already be in the rate case.
14 Okay. Going to the priorities, and I want to come
15 back a little to the CT-1 issue because I said that's the
16 highest priority.
17 Having an unrecovered asset of this magnitude would
18 cause the market to assume that the regulatory compact is not
19 working. Nothing really represents a greater threat to all of
20 us in achieving the energy objectives we have enforcing the
21 rating agencies to make the call of whether we should be
22 downgraded. Once we are downgraded, the road back would be
23 very difficult and lengthy; stated, otherwise, if we lose that
24 confidence, we will not get it back quickly no matter what
25 subsequent steps we take.

1 And we recognize there is this feeling that we use
2 the rating agency reaction in sort of boogyman and then we
3 significantly overuse that threat. I hope we're cognizant of
4 that criticism, although it doesn't seem like it in this case
5 because we continue to refer to it because the ratings are
6 simply that important.
7 And why do we talk about them?
8 Because they are a visible demonstrative indicator
9 of concepts like financial integrity and creditworthiness that
10 are sometimes difficult to measure or quantify. Like our
11 personal integrity, they're easier to lose than to restore.
12 And our history since 1990, has been a one-way decline. And
13 like our personal integrity, you only realize how much you
14 have lost when you need it the most and you have actually lost
15 it.
16 So what does the rating need to be?
17 Dr. Morin and Mr. Fetter would support an A rating.
18 We're not proposing rates that would be achieve an A rating.
19 Mr. Parcell said we need to maintain a least the current BBB
20 rating and it would disastrous to be downgraded to BB.
21 Unfortunately, that is not out of the realm of the
22 possible if the Company's major capital project is disallowed
23 and the allowed rate of return is significantly reduced; so, I
24 think we all need to be cognizant of what need to do there.
25 I do want to acknowledge the statement that the

1 Company's work on the Imperium biofuels contract has placed
2 the Commission in a difficult position; and, again, that's why
3 the Company moved aggressively to rebid the contracts to get
4 the first one to show you the clear path to the second one and
5 to take the risks of purchasing the first contract amount,
6 even without your prior approval, which potentially means the
7 Company would get no recovery on that amount.
8 From my perspective, Hawaiian Electric is working
9 very hard to restore your confidence in this, in part, by
10 taking affirmative actions that demonstrate that its firm
11 committed to the biofueling path.
12 That said, the Commission still has a
13 responsibility we recognize to ensure that we get there. The
14 order allowing a second interim will still be an interim
15 order, and the amounts collected under interim would be
16 subject to refund if not allowed in the final order.
17 The Commission will be able to track the Company's
18 progress in obtaining biofuel in the biofuel contract
19 proceeding; or, through reports that it requires us to provide
20 to you in your interim order.
21 I mean, it would be very reasonable for you to
22 require that we submit orderly reports showing you that we
23 are, in fact, making the progress we have promised towards
24 obtaining biofuel for this unit. I don't think it's cognizant
25 upon the Commission to take what we say on faith. It's our

1 obligation to demonstrate to you that we are, in fact, making
2 that progress. And if we don't make the progress, then you
3 have options available to you, including an extreme case,
4 finding that it should not have been included in rates even in
5 the interim order.
6 The second highest priority is decoupling. It's
7 noted by the Consumer Advocate's expert giving a 40 percent
8 RPS and a 30 percent energy efficiency reduction mandate, the
9 Company must be compensated under a different formula.
10 All of the parties in the decoupling docket appear
11 to agree on the need to establish and implement revenue
12 balancing account; and, I think, with the exception of one
13 party, even the RAM, and we'll propose an interim decoupling
14 order that allows us all to get started. I don't really want
15 to argue decoupling here since the other parties aren't
16 present.
17 The third priority is the RES or CEIS. This
18 surcharge merged out of the Commission's own progress pursuant
19 to Act 162. And interestingly, it may stand out as the one
20 item that every single party, including life of the land,
21 agree to us to it's appropriateness.
22 The Act 162 process was the Commission's process to
23 determine how best to encourage renewable energy and the
24 surcharge was a key outgrowth of that work.
25 We do hope that the Commission will approve these

1 surcharges as it has provided a clear path for a number of
2 renewable energy projects. Otherwise, we will need to find
3 another way to seek compensation for such items as the Big
4 Wind studies, the substation costs that we have agreed to
5 incur in the Keahoulu Wind project and so on.
6 Approving the surcharge is not guaranteed that the
7 projects we propose will be allowed through the surcharge. We
8 got to file a separate application for each of those. I would
9 point out though that the principal beneficiary of the RES --
10 REIP surcharge are the entities that will be doing the
11 projects and ratepayers because we'll be able to do the
12 project sooner.
13 The vehicle right now for interconnection costs is
14 to embed them in the Power Purchase Agreement and then we
15 collect those costs through the ECAC through the energy
16 payments; so, we have a vehicle to recover costs. We just
17 have to push the costs on to the IPPs.
18 This mechanism is proposed as a way for us to
19 actually take on some of those costs. So we're taking on a
20 new obligation and the mechanism is a way for us to recover
21 the costs. It doesn't reduce our risks from what it was going
22 into this process. We didn't have the obligation to incur
23 these costs. Now we would be incurring them and recovering
24 them through this mechanism.
25 The Big Wind study costs are another example.

1 However, there's a cost that typically would be embedded in
2 base rates. They've been taken out of the base rates and
3 we're still incurring the costs and we don't have an approval
4 of REIP surcharge yet. So, in that sense, we're worst off
5 than we were under the old mechanism because now we have the
6 risks of incurring this because we actually have a higher
7 risk; so, this is not a one-way risk street with respect to
8 these factors or these proposals.
9 The fourth priority is the Power Purchase
10 Adjustment Clause. It's a lower priority simply in the sense
11 that it's not going to be approved, if at all, until the
12 Commission issues its final decision in the rate case.
13 The principal benefit is the potential reduction of
14 imputed debt attached to our PPAs. The principal benefit is
15 not the recovery of costs or the power purchase contracts.
16 Right now, we recover the costs through base rates and through
17 the ECAC.
18 We actually have a mechanism called the firm
19 capacity surcharge to recover new capacity payments for new
20 renewable projects. This is in 26927.2. So we have a
21 mechanism to recovery costs between rate cases. What we're
22 trying to do is get the rating agencies to reduce the level of
23 imputed debt. Now that does have a bad FIT to the cost of
24 capital if, in fact, the rating agencies follow through and
25 reduce it from the risk factor from 50 percent to 25 percent.

1 It's not going to happen instantaneously. They
2 have to look at the situation; and, at the same time, we'll be
3 incurring more imputed debt through additional PPA; so,
4 there's an offset to how much we're able to reduce the amount
5 of imputed debt there.
6 So, basically, the most important of those items is
7 the recovery of the CT-1 costs that's going to put us in the
8 best position to maintain our credit rating.
9 The second is decoupling and decoupling is
10 primarily intended to address the new risks that we are facing
11 as we, in the past, we've had the mechanism of increased sales
12 to recover costs in between rate cases. We don't have that
13 mechanism anymore, in part, because of the economy, but going
14 forward because of the clean energy initiatives and the fact
15 that we want to vastly expand the amount of energy
16 conservation in this state.
17 So this is a new risk and it's a mechanism to
18 address that new risk; and, I think reducing the rate of
19 return to the levels we've talked about, the .25 is a fair
20 recognition that they're above increased risks as well as the
21 reduction of risks through these mechanisms.
22 And, frankly, it's the one thing we really didn't
23 hear from the other parties when they were talking about the
24 effect of why we're doing these mechanisms. They all assume
25 business as usual and then shifted their recommendations to

1 the bottom of their ranges because we have these new
2 mechanisms.
3 And what's the problem with that approach?
4 The problem is it's not business as usual.
5 Where is the recognition that the mechanisms offset
6 new risks that are added by the RPS law change?
7 There are operational risks, there are cost
8 recovery risks, there are loss of sales due to -- that we used
9 to cover cost increases for in the past and to cover the costs
10 of plant additions, and we don't have those anymore.
11 So we have additional risks we need mechanisms to
12 help offset those risks. We are recognizing some reduction in
13 cost of capital, but it's not the level that has been talked
14 about by the other parties, because it's a net change taking
15 into account the additional risk.
16 And what's an example of the risks that you have as
17 you embark on a new venture?
18 Well, I think, the biofuel situation for the new
19 unit is one example of the type of risks we take on. We've
20 been told that we have less risks because we have prior
21 approval of projects. We have prior approval of CT-1, but we
22 have embarked on a new obligation to obtain biofuel for a
23 unit. We don't have extensive experience with acquiring
24 biofuel and so it is a new venture.
25 We're not going to be perfect in executing these

1 new tasks. It's not going to happen. We maybe need to be
2 less imperfect than we were with respect to this one, but
3 we're not going to be perfect on other tasks that we have to
4 execute as well; and, when you execute new tasks, you take on
5 new risks, and that needs to be reflected in this equation
6 that we're talking about.
7 I probably talked most of the time I was supposed
8 to talk. But, if I might, I do need to talk about the final
9 revenue requirements and just a couple of points on
10 informational advertising.
11 As the Chair said, we would want you to look at a
12 longer period of time, at least from 2005 through the current
13 period of time; but, more importantly to recognize the
14 importance of undertaking this effort.
15 I think we have buy-in from the public for the
16 concept that we should acquire renewable energy and resources;
17 but, I don't think we have buy-in at this point for what it
18 will take to acquire those resources; and, it really would
19 benefit all of us on including the customer if we are able to
20 acquire that buy-in and part of that buy-in can only be
21 obtained through educating the public, and we need some
22 dollars in order to do that.
23 So where are we in this case?
24 We've come a long way. The application requested
25 an increase of 97 million. The update with the lower sales

1 forecast would have actually ended up being more than
2 97 million and what was capped at 97 million because that was
3 the amount of the application. The settlement reduced that
4 amount to 79.8 million but also had recognition that we had
5 reached a joint decoupling proposal with the Consumer Advocate
6 that would give us a vehicle to recover the second half of
7 CT-1 costs.
8 The Commission's interim decision in order allowed
9 a 61.1 million increase leaving out 18.7 million of the
10 settled amount; and, 13 of that, related to CT-1.
11 In the meantime, we are definitely in a recession
12 and it's been pointed out. We have taken some effort to
13 contain costs, pretty extensive efforts in some regards.
14 So what should be the impact on the revenue
15 requirements?
16 Well, generally, we would not adjust the revenue
17 requirements with respect to settled issues, even if some
18 inputs to the settlement have changed. As the Consumer
19 Advocate and the DOD have both stated, the settlement involves
20 a fair amount of give and take already.
21 So but what about the fact that some cost have been
22 reduced in order to contain costs.
23 Should we reduce the settlement revenue
24 requirements to reflect those reductions?
25 Well, if you're going to do that, you need to look

1 at the total picture of what's driving the need to contain
2 costs.
3 First, the interim rate increase was delayed.
4 The settled rate increase, is that needed at the
5 beginning of the test year?
6 We knew it would be delayed by five months when we
7 filed the case. We knew it would be delayed by six months
8 when we settled because we expected the interim at the
9 beginning of July, and we were prepared to live with that
10 delay even though if you an 80-million increase you're, in
11 fact, living with a 40 million-dollar reduction in revenue or
12 30 million if it's a 60 million increase.
13 Well, the Company is already prepared to absorb a
14 significant amount of costs in 2009 because of the economic
15 situation; but, the interim was delayed another month, which
16 adds another 5 million. It's 5 million a month of revenue
17 that we were supposed to receive pursuant to the settlement.
18 Second, sales are lower than the test year estimate
19 by 87.5 gigawatt hours -- that's no longer a confidential
20 number -- through September, which cost about another
21 8 million in net revenue requirements after fuel and purchased
22 energy.
23 Again, we knew about the sales shortfall when we
24 settled, at least up to that point in time, and we're prepared
25 to absorb the impact through June; but, we also anticipate of

1 getting sales decoupling from the date of the interim and not
2 absorbing it after June, so we are absorbing it after June,
3 and we will continue to do so through the rest of this year.
4 We can't go backwards and now recover the lower amount due to
5 lower sales.
6 I already mentioned that the costs of CT-1
7 193 million, 963 million (sic), and we're not intending to go
8 backwards and try and now factor 193 million interim revenue
9 requirements. I think the number I have in my notes is that
10 that's been 2 million in revenue requirements based on average
11 costs to be about 4 million based on full cost.
12 Now when we settled, the joint decoupling proposal
13 would have allowed recovery of the remainder as of January 1,
14 and when I say "remainder," up to 193 million; but, we since
15 modified the joint proposal so that even the RAM would only be
16 based on 163 million; and there's no certainty that that will
17 be approved.
18 You may ask yourself why didn't we update the CT-1
19 estimate in May?
20 Well, when we did the updates in December we were
21 faced with delay in the interim of six months from June until
22 December, and that's at a costs of at least 30 million. So
23 when we looked at May, we couldn't afford any further delay in
24 the interim by doing another update. The other parties would
25 have had to have the opportunity to look at the new numbers.

1 And then, lastly, the settlement assumed 15 million
2 in annual rate relief CT-1 at the beginning of July, and we've
3 lost at least three months of that at a costs of about
4 3.3 million.
5 So does that mean we are unwilling to update at
6 all?
7 Actually, it does not mean that. We are willing to
8 reduce the settlement revenue requirements for certain larger
9 items, and some of the items that were taken away by the idea
10 in all would have to be allowed to make that come out
11 properly; but, I think the net reduction we're talking about
12 is 5 million, which if I've heard the Consumer Advocate
13 correctly this morning, it's also what they are suggesting we
14 should end up in the case. So we would ask for the 13 million
15 for CT-1 and we would not ask for any further amount beyond
16 that.
17 The specific reductions are things like the
18 Ellipse 6 upgrade, which has now been moved into 2011, I
19 think. The revenue requirement effected that as 1.3 million.
20 We had originally included in revenue requirements
21 a 4 percent salary increase as of May 1. We reduced that in
22 the settlement to 2 percent. We have not allowed the other
23 2 percent wage increase to take place, and we would take that
24 out of our revenue requirements.
25 Mr. Tamashiro talked about net rent for leases that

we have not entered into. It's another 246,000. As I said, there's some other elements that would need to be added back; but, the net effect of the total reduction would be 5 million, and we haven't identified all of the specific elements of that.

For example, there still is an issue regarding the employee discount. If it is not allowed, then that revenue decrease of 1.1 million -- I mean, that revenue requirement decrease of 1.1 million would remain.

There is also an OPEB, O-P-E-B, the effect of not having the employee discount that we would take into account. We would want to talk to the other parties about exactly how you should do that. So, again, the total reduction would be 5 million, even if the individual items add up to less than that.

Rate increases at any time are difficult for our customers. Rate increases during a recession are even more challenging; but, the need for adequate and reliable supply of electricity is not lessened because of the recession. The impact of not being in a position to provide adequate and reliable electric service would be detrimental to all customers and catastrophic for our fragile recovering economy.

We also need to be in a position to achieve our energy objectives, energy independence with stable energy prices based on indigenous renewable and clean energy

1 resources.

2 The consequences of not protecting our credit

3 quality, as far as our ability to achieve those goals, would

4 be much more detrimental to our customers than the increase we

5 are requesting.

6 In part, we need to put this into context. At the

7 time we filed for the increase, world oil prices were on in

8 the order of $140 a barrel. Our energy prices climbed to as

9 high as 32.4 cents a kilowatt hour for residential customers;

10 and, then they fell back to 18.2 cents per kilowatt hour in

11 May of 2009.

12 And, as of August 1st, the energy charge was

13 20.8 cents and the interim increase on August 3rd added 1 cent

14 to that to 21.8 cents.

15 What's the point?

16 The recession dropped energy prices by 12 cents per

17 kilowatt hour, and the interim has added that 1 cent. That

18 doesn't mean we can or should ignore the fact that we are in a

19 recession. You folks are fully justified in asking us what we

20 have done in light of this severe economic recession.

21 We've also taken some short-term measures to

22 protect our financial integrity and credit standing to make up

23 part of the sales reduction and built-in delay, but those

24 measures are not sustainable and cannot be contained without

25 impacts to service quality and reliability as well as delaying

1 our ability to achieve the energy objectives.
2 At the same time those world oil prices have
3 started to go back up. This last week they were back to the
4 80-dollar range. We're going to be shipping more dollars out
5 of state if we can't achieve energy independence. We're not
6 going to do it this year but we're starting down that path.
7 The state administration and legislature have
8 recognized that by ratcheting up the RPS and energy efficiency
9 goals with the support of the utility and the Consumer
10 Advocate, and that's why we should not defer the steps that we
11 need to take now to help achieve our energy objectives even
12 though we are in this recession.
13 We thank you very much for your patience and
14 allowing us to present our case during the course of this
15 proceeding. We thank the Consumer Advocate and the DOD for
16 exploring every single individual aspect of our revenue
17 requirements through their information requests but, also, for
18 being supportive of a very reasonable Settlement Agreement.
19 And we hope that we can all work together
20 recognizing that the utility has a major responsibility to
21 work with the Commission to achieve these energy goals for the
22 state.
23 Thank you very much.
24 CHAIRMAN CALIBOSO: Thank you, Mr. Williams.
25 Questions, Commissioners?

1 COMMISSIONER KONDO: I have some questions
2 Mr. Williams.
3 MR. WILLIAMS: Yes, sir.
4 COMMISSIONER KONDO: First of all, I want to let
5 you know that I take exception to the comments that if the
6 Commission does not allow CT-1 into rates, that it would
7 demonstrate to the market regulatory compact is not working,
8 and I take exception because I think that the Company needs to
9 take some responsibility, not only for CT-1, but if the
10 Commission does not allow interim rates to allow for the
11 recovery of the additional half of CT-1 because the Company
12 expected to recover it through a decoupling mechanism that has
13 yet to be approved.
14 I'm not sure that that reflects the regulatory
15 callback is broken. It's just a risk the Company took and
16 stuck itself in a position to depend upon or rely upon a
17 mechanism that had not yet been approved by the Commission. I
18 just want to note my exception to the comment.
19 MR. WILLIAMS: Could I just briefly address that,
20 sir?
21 COMMISSIONER KONDO: You can. I don't need you to.
22 I just wanted to --
23 MR. WILLIAMS: I understand that but I don't want
24 to leave the impression that I'm saying this is the
25 Commission's fault. I'm saying this the way the markets are

1 going to view this situation.
2 COMMISSIONER KONDO: I hear you. And I think
3 sometimes the Company has got to stand up and say that one is
4 my bad but, perhaps, that's tough for the Company to do; and,
5 I understand that it's a tough position to be in.
6 I want to talk a little about CT-1 --
7 MR. WILLIAMS: Yes, sir.
8 COMMISSIONER KONDO: -- now.
9 And I share the stress that the Company feels
10 relating to CT-1. And I want to start with the assumption
11 that there's a need, like you've talked about. I want to
12 start also with the assumption that we understand the impact
13 to both the Company and the ratepayer if CT-1 is not concluded
14 in the rates.
15 And I appreciate your thoughtfulness in trying to
16 give the Commission some different scenarios about how the
17 Company or how the Commission may be able to allow some of the
18 recovery of CT-1, because I think we're all on the same page
19 about the importance of that recovery.
20 I guess my questions are, Assuming the Commission
21 disagrees with your analysis as to the used and usefulness of
22 the unit, assume that, if we adopt -- well, maybe that's not a
23 good place to start off.
24 My concern is if we adopt one of your alternatives;
25 especially, number one to try jam what I consider to be the

1 square used and usefulness to peg into the round hole kind of
2 thing.
3 For me, starting down a slippery slope, and, I
4 guess, what I mean by that is we we're looking at a result and
5 trying to get a result that we like, but in the future are we
6 now exposing this Commission and future commissions to the
7 Company coming back here and saying, Now, we started this,
8 we're making efforts, we're showing good faith. We didn't do
9 it in the test year, but we'd like you to allow us to recover
10 that expense in the future.
11 I'm assuming we don't have decoupling and, perhaps,
12 maybe we don't even have an RBIS or maybe we have decoupling
13 without RAM, with those assumptions, can you talk to me a
14 little bit about the possibility that we're opening up a can
15 of worms to help here but it's going to come back to bite the
16 Commission or a future commission in the future?
17 MR. WILLIAMS: Well, let me address that in two
18 ways.
19 Number one, the precedent indicates that if it is
20 partially used and useful, it's appropriate to put it in rate
21 base. And let's get --
22 COMMISSIONER KONDO: Yeah.
23 MR. WILLIAMS: -- and it does --
24 COMMISSIONER KONDO: Because we're going to
25 disagree about the precedent in the cases that you cited

1 because --

2 MR. WILLIAMS: Okay.

3 COMMISSIONER KONDO: -- and I'll you why, because

4 it seems, to me, that that makes the GO7 approval irrelevant,

5 because we've approving a plant with XYZ, meaning a hundred

6 biofuels. Not only we disagree about that. We had some

7 discussions about with the stipulation and what the order was.

8 But assuming that the stipulation in the order

9 required a hundred percent biofuels, it seems, to me, that

10 your analysis or your argument makes the GO7 approval

11 meaningless.

12 So let's start with the assumption that your

13 argument about the two of the three factors would demonstrate

14 that it's used and useful, because I'm not sure I'm buying on

15 that one. I'm just trying to understand that if we were

16 trying to stick the square peg in the round hole kind of

17 thing.

18 What are we opening up?

19 MR. WILLIAMS: Well, it's very difficult for me,

20 Mr. Commissioner, because I don't think we're sticking a

21 square peg into a round hole. But the important thing is what

22 does the Commission decide. It's not what I believe.

23 So if that peg doesn't fit, there's the second peg,

24 it's clearly property held for future use under any scenario,

25 and it can be included in rate base as property held for

1 future use. That's the second option, which you think that
2 avoids creating a bad precedent.
3 And that's why I said. You have to look at the
4 circumstances. I think that, I think, I've argued fairly
5 persuasively but obviously not persuasively enough, that it
6 can be included in rate base as property held as plant in
7 service; but, if the Commission disagrees, clearly it can be
8 held in -- put in rate base as property held for future use.
9 COMMISSIONER KONDO: If the Commission approves a
10 decoupling mechanism with the RAM, does this discussion, at
11 that point, get resolved?
12 And what I mean by that is if the Commission does
13 not agree that it's used and useful during the test year and
14 for whatever reason decides we don't want to open up that can
15 of worms about trying to create a way to allow the Company to
16 recover it in the rate case, if we approved decoupling with
17 the RAM, does that concern about recovery of CT-1 now go away?
18 MR. WILLIAMS: Yes and no. You need to tell us
19 that it's not used and useful and then we can continue to
20 accrual AFDUC; and, then, at that point, it's deemed to be
21 used and useful and there needs to be a mechanism to include
22 it in rates and that mechanism could be the RAM; but, we still
23 have to deal with the period between now at the time that
24 occur.
25 It's going to take a while to get biofuel. If it's

1 not deemed to be used or useful which, to me, is a very
2 difficult situation because right now that plant is sitting
3 there; if there's a shortfall in capacity, it will serve
4 customers and, yet, there's no return being earned from that
5 facility.
6 So it needs to be allowed to accrue AFDUC in the
7 meantime and that needs an affirmative order from the
8 Commission.
9 So that's really option three. I mean, the
10 mechanism to include it in rates can be the second interim.
11 Outside the test year it can be the RAM mechanism. There
12 needs to a mechanism once the biofuel is here to include it in
13 rates; and, that's the third mechanism.
14 COMMISSIONER KONDO: And any additional thoughts on
15 this in your post-hearing brief will be welcomed.
16 MR. WILLIAMS: Thank you.
17 COMMISSIONER KONDO: Thank you.
18 MR. WILLIAMS: Thank you very much for being
19 patient and listening to us.
20 CHAIRMAN CALIBOSO: Thank you, Mr. Williams.
21 Just to clarify under your second option of
22 property held for future use option.
23 MR. WILLIAMS: Yes.
24 CHAIRMAN CALIBOSO: Are you envisioning a second
25 interim for that as well?

1 MR. WILLIAMS: Again, well, if the reason is
2 property held for future use is because it does not have
3 biofuels. Once it gets biofuel, it doesn't really need to be
4 a mechanism to transfer it into rates at that point because it
5 will be in rates.
6 So we just need -- into that second option, we need
7 an interim to incorporate it in rates the first time and then
8 we need another mechanism to, again, incorporate the second
9 half of the costs, whether that's the RAM or another interim,
10 but it still requires an interim if it's property held for
11 future use to be able to recover a return on that investment.
12 CHAIRMAN CALIBOSO: Thank you.
13 I guess that completes closing arguments. The
14 Commission will take this matter under advisement. Your
15 post-hearing briefs, as we've mention in the prehearing
16 conference order, will be due to us four weeks after the
17 transcripts are issued; but, please refer to the prehearing
18 conference order.
19 With that, I thank you very much for all of your
20 hard work and for your efforts to give us information that we
21 need.
22 MR. WILLIAMS: Mr. Chairman, did you want to still
23 address those hearing exhibits now, identifying those?
24 CHAIRMAN CALIBOSO: Oh, thanks for reminding me.
25 MR. WILLIAMS: Mr. Kikuta was going to do it for

1 us.
2 CHAIRMAN CALIBOSO: Thank you.
3 MR. KIKUTA: Thank you, Mr. Chairman.
4 Yes, Hawaiian Electric submitted Hearing Exhibits 1
5 through 13 and subsequently filed them with the Commission.
6 CHAIRMAN CALIBOSO: All right.
7 MR. ITOMURA: Consumer Advocate, specifically on
8 October 22nd, 2009, submitted three exhibits.
9 CA Hearing Exhibit 1 was the contract for services
10 based upon the competitive state proposals between the Hawaii
11 Public Utilities Commission and the Science Application
12 International Corporation.
13 CA Hearing Exhibit 2 was the related Hawaii Energy
14 Efficiency Program manual plan program year 2009.
15 CA Hearing Exhibit 3 was additional and supplement
16 testimonies and exhibits of David C. Parcell, the Consumer
17 Advocate's consultant and witness.
18 And on November 2nd, 2009, CA Hearing Exhibit 4,
19 provided by CA consultant and witness Mr. Mike Brosch was the
20 management audit discussion points and topics.
21 CHAIRMAN CALIBOSO: Thank you.
22 MR. MCCORMICK: Mr. Chairman, the DOD submitted DOD
23 Hearing Exhibit 1, which was a one-page table taken from the
24 Federal Reserve website listing the Treasury bond long-term
25 utility rates from 1993 through 2008.

1 DOD Hearing Exhibit No. 2 was an extract from the
2 ROA Regulatory Focus Report dated April 2009, which has, as a
3 heading on that page, page 2, Average Equity Returns
4 Authorized January 1990 to March 2009.
5 DOD Hearing Exhibit No. 3 submitted yesterday was
6 an extract from the RRA Regulatory Focus Report, dated
7 October 2009, and the heading on that page, first page 4 of
8 three pages, which are pages 4, 5, and 7 extracted from that
9 report, and the first page is entitled Electric Utility
10 decisions, and that these three exhibits were all submitted at
11 the hearing this week and filed this morning with the
12 Commission.
13 CHAIRMAN CALIBOSO: Thank you.
14 Mr. Williams, you had something?
15 MR. WILLIAMS: Yes. Just so that we're clear on
16 the record, all the written testimony, exhibit work papers,
17 updates, responses to information request would also be part
18 of the record.
19 CHAIRMAN CALIBOSO: Thank you. The Hearing
20 Exhibits that you mentioned, 1 through 13, those were
21 separately filed with the Commission; is that correct?
22 MR. WILLIAMS: Yes, Mr. Chairman.
23 CHAIRMAN CALIBOSO: And the dates on them?
24 MR. WILLIAMS: They're different dates.
25 MR. KIKUTA: Hearing Exhibits 1 -- Hawaiian

Electric Hearing Exhibit 1 through 3 were filed with the Commission on October 28th, 2009. Hearing Exhibit 3 was subsequently refiled on November 3, 2009. Hearing Exhibits 4, 5, and 6 were also filed on October 28th, 2009. Hearing Exhibits 7 and 8 were filed also on November 2nd, 2009; and, Hearing Exhibits 9, 10, 11, 12 and 13 were also filed on November 2nd, 2009.

CHAIRMAN CALIBOSO: Okay, thank you.

All right. Commissioners, anything before we close?

Again, thank you all very much, and we'll take this record under advisement, and we'll be issuing a written order or orders.

We are adjourned.

(Whereupon, at 10:35 a.m., the hearing was concluded.)

C E R T I F I C A T E

This is to certify that the attached proceedings before the Public Utilities Commission of the State of Hawaii In the Matter of the Application of Hawaiian Electric Company, Inc. For Approval of Rate Increases and Revised Rate Schedules and Rules, at 465 South King Street, Honolulu, Hawai'i, commencing, on Wednesday, November 4, 2009, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.

Tristan Joseph, CSR NO 469, RPR NO. 24906

TRISTAN-JOSEPH, CSR NO. 469, RPR NO. 24906