DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC., HAWAI`I ELECTRIC LIGHT COMPANY, INC., MAUI ELECTRIC COMPANY, LIMITED, and NEXTERA ENERGY, INC. For Approval of the Proposed Change of Control and Related Matters.	DOCKET NO. 2015-0022

DIVISION OF CONSUMER ADVOCACY'S
PRE-HEARING BRIEF

I. SUMMARY OF CONSUMER ADVOCATE'S POSITION.

The proposed acquisition and merger ("Merger" or "Proposed Transaction") of Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., Maui Electric Company, Limited (to be collectively referred to as the "Hawaiian Electric Companies" or "Hawaiian Electric"), and NextEra Energy, Inc. ("NextEra") (collectively, the Hawaiian Electric Companies and NextEra are referred to as the "Applicants") represents a profound change in a critically important element of the State's economy. The Merger represents a challenging mix of claimed benefits for electric customers, offset by new uncertainties, risks and regulatory complexities. The Consumer Advocate does not support Commission approval of this Merger in the form proposed by Applicants, because it does not provide tangible and substantial net benefits to Hawaii's consumers. The Consumer Advocate proposed a detailed rate plan and a series of other conditions that, if adopted in total by the Commission, could support a finding that NextEra is fit, willing and able and the Merger is in the public interest.

Applicants have represented that the Merger offers vast public interest benefits in many forms, including potentially large cost savings for ratepayers, expanded access to capital on better terms, deeper management expertise, and relevant technical experience. When carefully analyzed, it is obvious that the Applicants failed to provide sufficient support and enforceable commitments that truly guarantee customer benefits while mitigating the many costs and risks arising from the Merger.

While Applicants' estimated potential future cost savings are large, the amounts of rate reductions are paltry, temporary, and not "guaranteed" because of the many conditions that are attached to Applicants' rate plan and rate case moratorium, both of which are hostile to customers' interests. The modest and temporary rate reductions that are offered are unreasonably small and are largely offset by RAM revenue acceleration, "Above the RAM Cap" rate increases, and other conditions attached to Applicants' proposed rate case moratorium.

The Applicants also do not support meaningful and enforceable comments that are responsive to the concerns addressed by the Consumer Advocate. Consumer Advocate witnesses have explained what must be done to limit the risks and costs arising from the Merger, through carefully crafted conditions addressing each of the issue areas outlined in the Commission's Orders.

The Consumer Advocate proposed a reasonable and balanced rate plan to provide the Applicants an opportunity to firm up claimed cost savings through guaranteed rate savings for customers, while mitigating the identified costs and risks that are created by the Merger. Applicants, however, rejected or ignored the Consumer Advocate's proposed conditions and rate plan and have held steadfast to speculative promises of potential customer benefits while offering only temporary and limited rate relief to ratepayers and numerous but largely inadequate new merger commitments.

Throughout the record, Applicants forego many opportunities to address or remedy concerns with the Proposed Transaction. The Commission should not approve the proposed merger because Applicants fail to satisfy their burden of proof pursuant to the standards of review set forth in Order No. 32695. In the alternative, if the Commission should approve the Proposed Transaction, the Commission should make such approval subject to the Consumer Advocate's proposed conditions to ensure the Applicants' commitment to providing tangible substantial net benefits to Hawaii customers.

II. THE COMMISSION SHOULD ADOPT THE SUBSTANTIAL NET BENEFITS STANDARD.

Pursuant to Order No. 32695, Applicants have the burden of proving and demonstrating, by a preponderance of the evidence,[1] that NextEra is fit, willing, and able to properly perform the services currently provided to customers by the Hawaiian

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1 Hawaii Revised Statutes § 91-10(5) states as follows: "[e]xcept as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion[,] [in the proceeding]. The degree or quantum of proof shall be a preponderance of the evidence." See also In re Hawaiian Elec. Co., Inc., 66 Haw. 538, 669 P.2d 148 (1983) (confirming the applicability of HRS § 91-10(5) to contested case hearings decided by the Commission).

Electric Companies and that the Proposed Transaction is reasonable and in the public interest.[2]

The time is ripe for the Commission to adopt a standard providing that regulated utility mergers will be judged to be reasonable and in the public interest only if the merger will provide tangible substantial net benefits to consumers and not adversely affect the utility's fitness, willingness, and ability to provide regulated utility service to its customers as authorized by the Commission.[3]

III. APPLICANTS FAIL TO DEMONSTRATE THAT THE PROPOSED TRANSACTION IS IN THE PUBLIC INTEREST.

Applicants fail to specifically identify how Applicants' claimed advantages and benefits will flow to customers.

A. APPLICANTS FAIL TO ADEQUATELY ASSESS BENEFITS FOR HAWAII'S ECONOMY.

Applicants fail to provide a balanced analysis to support any finding that the Proposed Transaction will be beneficial to Hawaii's economy. Primarily, Applicants neglect to estimate negative impacts in its economic analyses, resulting from reductions in the local workforce and spending on Hawaii businesses. Applicants assume no job losses in Hawaii for at least five years, despite only committing to two years with no workforce reductions. Applicants relied on nine other mergers to estimate savings, all of which involved significant job losses. Applicants have also not analyzed decreased

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2 See Order No. 32695 Initiating Proceedings; Establishing Standards Of Review, Initial Statement Of Issues, And Initial Procedures; And Addressing Intervention Requests, at 14-16 (filed on Mar. 2, 2015) (discussing the standard of review to be applied by the Commission).

3 See e.g., Decision and Order No. 21715, Docket No. 05-0045, at 11-13 (filed on Apr. 4, 2005) (stating that a transaction will be reasonable and consistent with the public interest if the transaction will not adversely affect the utility's fitness, willingness, and ability to provide regulated utility service to its customers, as authorized by the Commission, in the State).

spending on Hawaii businesses as a result of future workforce reductions, instead claiming that such reductions would be "minimal." Applicants conveniently focused solely on estimating positive impacts, most of which will be unverifiable once the Proposed Transaction is approved.

Furthermore, the Applicants' benefit estimates are misleading. Applicants assert that the Proposed Transaction will create approximately $1 billion in benefits to Hawaii by double-counting more than $300 million. The inflated estimate results from the Applicants' unprecedented practice of adding projected savings from the Proposed Transaction to the share of that savings that is assumed to be re-spent in Hawaii's economy.

B. NO RATE BENEFIT FOR CUSTOMERS.

In-depth review of Applicants' claims of large future cost savings reveal that Applicants' asserted merger savings amounts are highly subjective and clearly exaggerated. Applicants admit that the necessary merger integration work has only just begun and that much more detailed analysis of business integration issues is required before merger integration costs and savings can be quantified with any precision. Mere speculative estimates of potential future savings should be rejected, and instead, the Commission should review the merits of defined commitments that can provide guaranteed up-front and continuing rate relief for customers. Applicants propose only $6 million of fixed rate reductions in year one after merger closing, $12 million in year two, $18 million in year three and $24 million in year four. Then, inexplicably, after year four the rate reductions are terminated and rates are increased by $24 million, despite the fact that merger integration work should be largely completed and any real cost savings should be continuing.

An additional disconcerting fact is that within the four year period of temporary rate reductions, Applicants place numerous conditions upon this limited rate relief that attempts to tie the Commission's hands by insisting on: 1) no changes to the fuel adjustment clause ("ECAC"), 2) Commission approval of the flawed Above the RAM Cap rate increase proposals, and 3) back door revenue increases through acceleration of RAM revenue recognition. These are but a few of Applicants' conditions on their commitments. Thus, the Applicants' rate reductions and rate case moratorium plan are not guaranteed and are potentially more harmful than helpful to ratepayers because of these conditions and the perpetuation of overstated debt and equity capital costs.

Applicants also fail to offer any detailed analysis of how the Hawaiian Electric and NextEra business functions would actually be combined or how actual costs within each department and function will be changed. For example, Applicants simply assume an immediate 10 percent savings across the entirety of future construction spending by the Hawaiian Electric Companies and applies this to estimated future capital spending at levels exceeding recent utility construction forecasts and include significant major transformational and software project spending that have not received Commission approvals.

Similarly, Applicants contemplate debt cost savings due to expectations of higher credit ratings if the merger is approved, but Applicants do not reset the cost of debt and equity capital until after a four year rate case moratorium has expired, keeping capital cost savings entirely for shareholder benefit except for any incidental AFUDC rate changes that may occur. It is the Consumer Advocate's rate plan that would give ratepayers immediate benefit from Applicants' debt cost savings and Hawaiian Electric's already overstated return on equity and capital structure.

With regard to the non-fuel O&M expense savings estimates offered by the Applicants, the Consumer Advocate's rate plan has accepted and included these claimed savings within proposed base rate reductions that would benefit customers while Applicants intend to keep these savings for shareholders and has offered customers only the fixed and temporary rate reductions totaling a cumulative $60 million across four years that are unreasonably conditioned upon other regulatory concessions that benefit shareholders, not consumers. Applicants offer no truly "guaranteed" rate reductions that would assure ratepayer participation in the claimed future utility cost savings.

1. Consumer Advocate Rate Plan.

A major concern is Applicants' resistance to the Consumer Advocate's rate plan that seeks to update ratemaking capital costs at the inception of any multi-year rate case moratorium in order to guarantee ratepayers' benefits. The Consumer Advocate agrees with Applicants that it is essential for a rate case moratorium to be in place if the Merger is approved. This is necessary to avoid the challenges of test year cost expense and rate base forecasting in the midst of merger integration and business restructuring, to limit the risks of integration costs exceeding related cost savings and to avoid the distraction of complex rate proceedings that would compete for resources during business integration and transformation initiatives. The Consumer Advocate, unlike the Applicants, asserts that any rate case moratorium be enforceable and not be conditioned upon back door rate increases through RAM acceleration or Above the RAM Cap increases. The Consumer Advocate also views it as essential that an updating of the cost of capital rates underlying presently effective base and RAM rate levels occur at the inception of any rate case moratorium. Applicants talk about capital cost savings that are expected to be realized, but seek to avoid providing these claimed benefits to ratepayers through base rate adjustments. Updating the cost of capital is necessary at the inception of any long-term rate case moratorium because:

- The RAM Orders issued by the Commission require triennial rate cases.
- The absence of any recent rate cases has denied ratepayer participation in actual debt refinancing savings experienced by the Hawaiian Electric Companies to date.
- Market interest rates have declined significant, causing the ROE levels that were approved by the Commission in past rate cases to now be excessive.
- Under NextEra ownership, additional debt leverage financing of the utilities is anticipated and ratepayers should not be denied participation in the significant cost savings of the resulting lower common equity ratio.

The Consumer Advocate's proposed rate plan embraces the need for a base rate case moratorium, while ensuring that significant and ongoing tangible net benefits to ratepayers will occur if the proposed merger is approved by the Commission. The Consumer Advocate's proposed rate plan is distinctly more robust than what Applicants have offered because it:

1. Does not arbitrarily expire in 48 months, just when claimed merger savings have stabilized after completion of most merger integration work;
2. Is not fixed at arbitrarily defined amounts that ramp slowly without regard to actual or estimated cost savings;
3. Does not freeze the cost of debt, cost of equity and equity ratio at the excessive levels approved in prior rate cases, for another four or more years;
4. Does not condition rate relief upon unreasonable RAM revenue acceleration, above the RAM Cap rate increases or other regulatory restrictions that may be harmful to ratepayers;

5. Explicitly flows to ratepayers the estimated net savings in non-fuel O&M expenses using Applicants' estimates, rather than leaving these claimed savings to benefit only shareholders; and
6. Provides for an ROE penalty in the event the moratorium is not honored.

The speculative cost savings estimates advanced by the Applicants should be discounted unless they are explicitly credited to customers, where such savings can be used to produce a significant, verifiable, tangible public interest benefit.

The Merger also raises a number of additional ratemaking concerns. For example, a new concern arises from Applicants' proposed use of vaguely defined criteria to record certain business integration/optimization costs on Hawaiian Electric's books in instances where such costs are believed to be intended to achieve merger savings. A problem arises whenever such expenses in any particular period exceed realized merger savings and then adversely impact either future RAM earnings sharing calculations or rate case analyses.

NextEra ownership is also likely to expose Hawaiian Electric customers to new and unreasonable costs for NextEra's senior executive management in Florida, for NextEra's corporate aircraft fleet, and for its incentive compensation plan awards or charges from its captive insurance affiliate. Unfortunately, the Applicants are resisting the Consumer Advocate's proposed conditions that would permanently restrict the ability of NextEra to seek rate recovery for such costs. The Consumer Advocate views this resistance as an indication that the Merger could be financially harmful to customers in the future, through rate recovery of these new types of costs not historically included in Hawaiian Electric's revenue requirement calculations.

2. Affiliate Transaction Safeguards.

The Consumer Advocate recommended affiliate-related merger conditions designed to benefit customers of the Hawaiian Electric Companies by proposing protections from cross-subsidizing other NextEra affiliates (whether regulated or unregulated) if the proposed change in control is approved. The Consumer Advocate proposed that any future transactions (i.e., the transfer of goods or services) between the Hawaiian Electric Companies and NextEra and other unregulated NextEra affiliates shall be priced asymmetrically to the benefit of the Hawaiian Electric Companies. That is, the Hawaiian Electric Companies shall always pay the lesser of cost-based or market-based prices when purchasing goods or services from unregulated affiliates and shall always receive the higher of cost-based or market-based prices when selling goods or services to such affiliates. Transactions between regulated affiliates, on the other hand, shall always be at cost. These policies have been adopted by other regulatory agencies and this Commission should find it necessary to do the same if the Hawaiian Electric Companies become part of the much larger and more complex NextEra enterprise. Applicants' responsive and surrebuttal testimonies offer no witnesses to sponsor the basis for Applicants' proposed rejection of asymmetric pricing. Therefore, the Commission should adopt asymmetrical pricing as proposed by the Consumer Advocate.

3. Applicants Fail To Offer Significant Reliability Commitment Benefits For Customers.

Applicants should commit to improving the Hawaiian Electric Companies reliability performance to meet first quartile performance consistent with the reliability performance achieved by FPL.

Although Applicants have made a commitment to meet the State's 100 percent renewable goal, Applicants only propose to improve SAIDI and SAIFI by 20 percent relative to a yet-to-be-determined historical three-year baseline. The Consumer Advocate, however, is unable to adequately analyze the Applicants' 20 percent commitment because critical issues such as costs, required workforce needs, and cost-recovery remain unknown at this point. Beyond the unresolved issues noted above, the Consumer Advocate has additional concerns because: 1) the Applicants are unable to confirm whether the 20 percent reliability improvement will be determined at the Hawaiian Electric Companies state-wide consolidated level or individually across each of the three companies; 2) the particular baseline period has not been identified; 3) the timeline for Applicants to implement the necessary improvements and when will ratepayers and the Commission see the reliability improvements is not known; and 4) there are no compliance mechanisms, such as penalties, for failing to meet this open-ended commitment.

IV. APPLICANTS FAIL TO DEMONSTRATE THAT HEI AND NEXTERA ADEQUATELY PROTECT THE HAWAIIAN ELECTRIC COMPANIES' CUSTOMERS FROM FINANCIAL HARM.

The financial benefits of the Proposed Transaction are grounded on two primary factors: 1) an expected improvement in the Hawaiian Electric Companies' credit rating resulting in lower debt financing costs and 2) a four-year rate moratorium with related factors identified in subsequent testimony. The record clearly reflects that the proposed financial savings for ratepayers associated with the Proposed Transaction are more tenuous than implied by the applicants.

For example, the debt cost savings estimates are based upon the opinion of a single credit rating agency (Standard & Poor's or "S&P") that expects an improvement in Hawaiian Electric's bond rating if the Merger proceeds. Two other major credit rating agencies, however, expect no change in bond rating for Hawaiian Electric. Further, the often-cited 25 basis point reduction in debt costs is not a reliable estimate of probable long-term Proposed Transaction related financial savings because this estimate was based on a bid solicited by Hawaiian Electric from a lender that has done significant business with both Hawaiian Electric and NextEra. This raises concern that this estimate may not have resulted from an arms-length evaluation of the risk differences.

Applicants conveniently avoid discussion of financial drawbacks for Hawaii ratepayers. NextEra, being an extremely complex company financially, has more financial risk than Hawaiian Electric Companies because, on a consolidated basis, NextEra uses much more debt to capitalize operations. Due to the fact that debt is used most heavily in NextEra's unregulated operations while keeping the amount of debt low (amount of equity high) on the books of NextEra's regulated operations (currently, FPL), the cost of the financial leverage of NextEra's unregulated operations shifts to the regulated ratepayer. The problem is that this cost shift allows the unregulated operations to be capitalized at less cost and the benefit of resultant savings flows to shareholders.

An additional concern involves the source of unregulated debt within NextEra is NextEra Energy Capital Holdings ("NEECH"), the parent company of NextEra Energy Resources ("NEER"—the holding company for NextEra's myriad unregulated operations). Neither NEECH nor NEER file financial statements with the Securities and Exchange Commission ("S.E.C.") or provide financial statements to stockholders in

NextEra's annual reports. The only capital structure the Consumer Advocate has been able to discover and evaluate for NEECH is a "deemed" capitalization of approximately 30% equity and 70% debt. Therefore, it is not possible for this Commission to directly assess the capital structure (financial risk) of the primary source of financing for NextEra's unregulated operations, although NextEra—the proposed owner of Hawaiian Electric—is the ultimate guarantor of that debt.

This lack of corporate organization transparency regarding the manner in which NextEra finances its riskiest operations is troubling for Hawaiian Electric ratepayers because a significant financial disruption within those unregulated subsidiaries could significantly impact NextEra, and, eventually, Hawaiian Electric.

NextEra's lack of transparency regarding parent-level financial leverage also directly impacts Hawaiian Electric and Hawaiian Electric Holdings (HEH). The Applicants' financial projections show [redacted]. [redacted], [redacted]. [redacted], the consolidated capital structure supporting NextEra's investment in Hawaiian Electric Companies would average approximately [redacted].

The net effect of this financing plan will be Hawaii ratepayers paying utility rates based on a much higher common equity ratio while NextEra will [redacted]. NextEra elects not to discuss its intent regarding the [redacted] in either its Direct or Responsive testimony and, therefore, is not being transparent in its financial intentions related to the Proposed Transaction.

Further, NextEra does not need Hawaiian Electric Companies in order to issue debt on NextEra's account or to use Hawaiian Electric Companies' assets to secure more debt capital. If the Proposed Transaction is completed, NextEra will own the revenue and income stream created by Hawaiian Electric and that income stream will serve as security for the issuance of additional debt by NextEra (or NEECH).

Therefore, because, 1) the financial benefits are less substantial than those enumerated by the Applicants in their testimony, 2) there is a lack of transparency with regard to the financial engineering undertaken by NextEra, 3) the complexity of the financial structure of NextEra, 4) the planned use of [redacted] for the benefit of stockholders rather than ratepayers, and 5) the lack of strict financial insulation from NextEra for Hawaiian Electric, the Proposed Transaction is not in the public interest from a financial point of view, and should be rejected for that reason.

If, however, the Commission decides, for other reasons, that this transaction, in its entirety, is beneficial for Hawaiian Electric's customers and wishes to approve the transaction, then additional financial conditions must be imposed to protect the Hawaiian Electric Companies.

In order to ensure that the financial risks residing at the parent company level do not affect the operations of the Hawaiian Electric Companies, it is necessary to include additional "ring-fencing" requirements that would prevent parent company access to Hawaii utility subsidiary assets in the case of financial distress or bankruptcy by the parent. Additional ring-fencing measures would also help to support and could improve Hawaiian Electric's credit ratings.

The additional ring-fencing measures include:

- A voting board of directors should be installed at Hawaiian Electric Holdings (HEH);
- Four of those directors on the HEH board should be from Hawaii;
- One of the members of the HEH board should be an independent director, affiliated with neither NextEra Energy nor Hawaiian Electric and, without the approval of that one independent director along with all of the other HEH board of directors, the Hawaiian Electric Companies cannot be moved into bankruptcy;
- NextEra Energy to submit a non-consolidating legal opinion, confirming that it will not attempt to consolidated Hawaiian Electric assets with NextEra Energy assets in the event of either financial stress or bankruptcy proceedings at the parent company; and

In order to secure actual, certifiable rate benefits for ratepayers from the Proposed Transaction, the Consumer Advocate recommends a rate reduction utilizing current equity capital costs (ROE = 9.0%) and an industry-average capital structure (Common Equity Ratio = 47%). The Consumer Advocate's proposed rate plan would reduce the Hawaiian Electric Companies' base rates and revenues by approximately $250 million over a four-year period.

V. 1982 AGREEMENT AND THOMAS REPORT.

The Consumer Advocate supports updating the 1982 Agreement to reflect the role NextEra Energy will play if the merger is approved. However, there still exist some disagreements between the Consumer Advocate and the Applicants on other substantive portions. The Consumer Advocate does not support the Applicants' proposed amendment to the 1982 Agreement regarding changing the requirement for "any" employee to appear before the Commission to a requirement for "an" employee to appear. The Applicants have not produced any evidence that the Commission has abused or improperly applied this condition that has been in effect since adoption of the 1982 agreement.[4] It is the Commission, not the Applicants, that should determine which individuals should appear and provide testimony at hearings.

The Consumer Advocate also proposes several modifications to address shared services. The Consumer Advocate contends that the Applicants' recommendation to only provide affiliate data supporting those NextEra entities "that provide services chargeable" to the Hawaiian Electric Companies is too narrow. In order to provide an opportunity for the Consumer Advocate and the Commission to test, evaluate and modify (if necessary) Florida Power and Light ("FPL") personnel decisions and calculations to direct charge or allocate costs to any NextEra entities that "impact" the charges to the Hawaiian Electric Companies' shared services costs, it is imperative to have access to the underlying information and data for all affiliated entities that impact shared service costs.

Also, the Consumer Advocate is proposing that the Applicants guarantee access to all books and records, which should not be as burdensome as is portrayed by the Applicants given modern forms of electronic data retention and sharing. Any attempt to limit access to information on shared costs solely from affiliated transactions directly with Hawaiian Electric Companies, but not those that may indirectly affect intercompany rates, would deprive the Commission of useful information when vetting the cost of service in Hawaii.

The Commission should reject Applicants' assertion that the Thomas Report should no longer apply because HEI no longer attempts to launch as many unregulated

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4 *See* Applicants' response to CA-IR-446 and Consumer Advocate Exhibit-16 at 59 and Exhibit-30

subsidiaries as it did in 1995 when the report was written, and because that process will be completed if the merger is approved by HEH's spin-off of American Savings Bank. The protections for Hawaiian Electric Companies' customers, contained in the Thomas Report's recommendations, are still relevant to address improved communication between the utility holding company and its regulators and investors and analyze the effects of holding company transactions on the cost of capital for the utility.

VI. COMMISSION SHOULD INSIST ON LOCAL GOVERNANCE.

Applicants fail to propose a model of corporate governance that enables the Hawaiian Electric Companies to fulfill Applicants' commitment to address "Hawaii's triple bottom line." Applicants' proposed "advisory board" would simply offer opinions, but have no actual governing/voting input toward corporate decisions made in Hawaii. NextEra intends to keep all decision-making authority in Florida. Although requested, Applicants refuse to address why a voting board of directors for HEH, controlled by NextEra and populated with four Hawaii residents, as suggested by the Consumer Advocate, is unacceptable. The Consumer Advocate is recommending conditions related to HEH electing to become a Sustainable Business Corporation and the Hawaiian Electric Companies obtaining "B Corporation" certification. The Applicants rejected all proposed conditions that would provide the framework for defining and tracking the fulfillment of Applicants' broad fiduciary duty, as holders of an exclusive franchise, to act with loyalty and care towards Hawaii's customers, communities and the environment.

VII. APPLICANTS FAIL TO DEMONSTRATE THAT NEXTERA HAS THE REQUISITE ABILITY AND SKILL SET TO ACHIEVE THE STATE'S

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at 19-25.

RENEWABLE ENERGY GOALS GIVEN THE UNIQUE ATTRIBUTES OF HAWAII.

The Consumer Advocate recognizes the acumen of NextEra's resources, but the FPL experience with solar PV is in sharp contrast to the situation faced by the Hawaiian Electric Companies.[5] Although FPL serves approximately 4.2 million homes, only 2,961 residential customers have solar PV, which the Applicants represent as a 0.07 percent PV penetration rate.[6, 7] Hawaiian Electric serves over 450,000 customers and integrates PV penetration beyond 12%, approximately 54,000 PV customers. Thus, short of providing potential savings due to greater purchasing and borrowing opportunities, the Consumer Advocate is skeptical of what distributed renewable energy experience NextEra will provide the Hawaiian Electric Companies. If anything, the Hawaiian Electric Companies will be exporting its institutional experience to help NextEra should solar PV penetration rates increase in FPL's service territory.

In addition, NextEra proposes to bring renewable energy experience to Hawaii,[8] however, the Consumer Advocate notes that NextEra's fleet also contains eight nuclear units representing 6,174 MW.[9] Furthermore, NextEra contemplates an expansion to add two additional units to its Turkey Point facility that currently may cost upwards

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5 Applicants Exhibit-69 at 24:4-7.

6 Applicants Exhibit-36 at 27:15-16.

7 CA-IR-273.

8 Applicants Exhibit-7 at 21:4-7.

9 Applicants Exhibit-10 at pages 16 and 24.

to $20 billion.[10, 11] The Commission should share the Consumer Advocate's concerns that NextEra's nuclear units represent potential financial risks.[12]

VIII. **CONCLUSION**.

Based upon the reasons stated above, the Commission must find that Applicants have not demonstrated that the Merger is in the public interest and deny approval. In the alternative, the Commission may adopt the Consumer Advocate's conditions, in total, as conditions to any Merger approval.

DATED: Honolulu, Hawaii, November 20, 2015.

Respectfully submitted,

By ______________________________
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DIVISION OF CONSUMER ADVOCACY

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10 https://www.fpl.com/clean-energy/nuclear/turkey-point.html accessed 11/19/2015.

11 http://www.floridapsc.com/agendas/archive/151019cc/151019.html.

12 Consumer Advocate Exhibit-20 at 35:9 to 36:3.

CERTIFICATE OF SERVICE

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