



MEMORANDUM

To: Members and Staff, Subcommittee on Oversight and Investigations

From: Majority Committee Staff

Re: Oversight and Investigations Subcommittee Hearing, “Investigating the Role of Electric Infrastructure in the Catastrophic Maui Fire.”

On Thursday, September 28, 2023, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled, “Investigating the Role of Electric Infrastructure in the Catastrophic Maui Fire.”

I. WITNESSES

Panel 1:

- Leodoloff R. Asuncion, Jr. Chairman, Hawaii Public Utilities Commission
- Mark B. Glick, Chief Energy Officer, Hawai'i State Energy Office
- Shelee Kimura, President and Chief Executive Officer, Hawaiian Electric

Panel 2:

- *Representative Ed Case (HI-01)*
- *Representative Jill Tokuda (HI-02)*

II. BACKGROUND

A. Relevant Entities

1. Hawaiian Electric

Hawaiian Electric Company provides electric utility services on Oahu, and is the parent company of Maui Electric Company, which provides service on the islands of Maui, Lanai, and Molokai, and Hawaii Electric Light Company, which provides service on the island of Hawaii

(collectively referred to here as Hawaiian Electric).¹ Hawaiian Electric, a for-profit, investor-owned utility,² provides service for 95 percent of Hawaii’s 1.4 million residents.³

2. Hawaii Public Utilities Commission

The Hawaii Public Utilities Commission (HPUC) regulates all chartered, franchised, certificated, and registered public utility companies operating in the state, including Hawaiian Electric.⁴ The HPUC is currently led by a Chair and two additional Commissioners, all appointed by the Governor and confirmed by the Hawaii State Senate.⁵

3. Hawaii State Energy Office

The Hawaii State Energy Office “leads statewide energy security and resilience initiatives while catalyzing energy independence and decarbonization.”⁶ Its duties include developing and informing policies to support state energy and decarbonization goals in conjunction with the HPUC, other state government entities, and other stakeholders; reducing energy costs and achieving clean energy goals; and assisting private sector project deployment where consistent with state policy goals.⁷ The Chief Energy Officer, who is appointed by the Governor, with the advice and consent of the State Senate, leads this agency.

B. Maui Fires

Beginning on August 8, 2023, a series of damaging wildfires broke out on the islands of Maui and Hawaii.⁸ On August 7, 2023, Hawaii’s Emergency Management Agency indicated the National Weather Service (NWS) had issued a “red flag warning” for the leeward side of the Hawaiian Islands prior to reports of fires.⁹ NWS issues these when “meteorological and environmental conditions are expected to result in extreme fire behavior within 24 hours.”¹⁰

¹ HAW. DEPT. OF COMMERCE AND CONSUMER AFFAIRS, *Public Utility Company Web Sites*, https://cca.hawaii.gov/dca/web_references/company_sites/ (last visited Sept. 19, 2023).

² Press Release, Cnty. of Maui, Haw., 8-24 County of Maui Files Lawsuit against HECO for Civil Damages Caused by Recent Maui Fires, Aug. 24, 2023, <https://www.maui-county.gov/CivicAlerts.aspx?AID=12759>

³ HAWAIIAN ELEC., *About Us*, <https://www.hawaiianelectric.com/about-us> (last visited Sept. 18, 2023).

⁴ HAW. PUB. UTIL. COMM’N, <https://puc.hawaii.gov/> (last visited Sept. 19, 2023).

⁵ <https://puc.hawaii.gov/about/commissioners/> (last visited

⁶ HAW. STATE ENERGY OFFICE, <https://energy.hawaii.gov/> (last visited Sept. 19, 2023).

⁷ HAW. STATE ENERGY OFFICE, *What We Do*, <https://energy.hawaii.gov/what-we-do/> (last visited Sept. 19, 2023).

⁸ LINDA ROWAN ET AL., CONG. RESEARCH SERV., IN12218, AUGUST 2023 WILDFIRES IN HAWAII (2023).

⁹ *Id.*; Daniel Arkin & Nirma Hasty, *Timeline: How Ferocious Wildfires Devastated Maui, Hour by Hour*, NBC NEWS, Aug. 15, 2023, <https://www.nbcnews.com/news/us-news/maui-wildfires-timeline-fires-created-chaos-rca99967>; Ben Gutierrez, *First Alert Weather Day: Red Flag Warning Extended as Dora Tracks West*, HAW. NEWS NOW, Aug. 6, 2023, <https://www.hawaiinewsnow.com/2023/08/06/first-alert-high-wind-fire-watches-issued-ahead-dry-gusty-weather/> (last updated Aug. 9, 2023).

¹⁰ NAT’L WEATHER SERV., NAT’L OCEANIC AND ATMOSPHERIC ADMIN., *Fire Weather Program Information*, <https://www.weather.gov/hfo/firewxinfo#:~:text=Red%20Flag%20Warning%20%2D%20issued%20when,daily%20Fire%20Weather%20Planning%20Forecast> (last visited Sept. 18, 2023).

Strong winds from Hurricane Dora, which passed approximately 800 miles southwest of Hawaii on August 9, 2023, contributed to the dangerous fire weather conditions.¹¹

These fires included one that reportedly broke out on the morning of August 8, 2023, near the town of Lahaina on Maui's west side.¹² The Lahaina fire damaged or destroyed an estimated 2,207 structures and burned 2,170 acres.¹³ Though identifying victims is difficult, on September 15, 2023, Maui County officials determined 97 victims had died.¹⁴ On August 10, 2023, President Biden declared a major disaster for Hawaii, making federal disaster assistance available for affected areas.¹⁵

C. Investigations, Litigation, and Reports of Causes

Debate over the cause of the fires persists.¹⁶ The Maui Fire Department and the U.S. Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) National Response Team will investigate the cause and origin of the fire.¹⁷ Hawaii Attorney General Anne E. Lopez announced that her office selected UL's Fire Safety Research Institute to assess state and county agencies' preparation for and response to the fires.¹⁸ Reportedly, HPUC will begin its own investigation after the Hawaii Attorney General and the ATF investigations conclude.¹⁹

Several lawsuits have already been filed in connection with the fires. Maui County filed suit in state court for damages caused by the fire against Hawaiian Electric Industries, the holding company for Hawaiian Electric, and its subsidiaries.²⁰ One lawsuit alleges that the utility failed to shut off its power lines despite warnings of dangerous weather conditions and a high likelihood that overhead transmission lines would contact the surrounding vegetation.²¹ This lawsuit also argues that downed power lines ignited the fires.²² Maui County also alleges the

¹¹ Stephen J. Beard, *Maui Wildfire Map: A Look at How Hurricane Dora and Low Humidity are Fueling Hawaii Fires*, USA TODAY, Aug. 9, 2023, <https://www.usatoday.com/story/graphics/2023/08/09/maui-hawaii-wildfires-map/70557454007/> (last updated Aug. 19, 2023).

¹² Kiara Alfonseca, *TIMELINE: HOW DEADLY WILDFIRES TOOK OVER MAUI DAY BY DAY*, ABC NEWS, Aug. 18, 2023, <https://abcnews.go.com/US/timeline-deadly-wildfires-maui-day-day/story?id=102253075>.

¹³ CNTY. OF MAUI, *Pacific Disaster Center and the Federal Emergency Management Agency Releases Fire Damage*, Aug. 12, 2023, <https://www.maui-county.gov/CivicAlerts.aspx?AID=12683>.

¹⁴ Corina Knoll, *Maui Fire Death Toll Drops to 97 After Weeks of DNA Review*, N.Y. TIMES, Sept. 15, 2023, <https://www.nytimes.com/2023/09/15/us/maui-fire-death-toll-drops.html>.

¹⁵ THE WHITE HOUSE, *President Joseph R. Biden, Jr. Approves Hawaii Disaster Declaration*, Aug. 10, 2023, <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/10/president-joseph-r-biden-jr-approves-hawaii-disaster-declaration-3/>.

¹⁶ Adeel Hassan, *What We Know About the Maui Wildfires*, N.Y. TIMES, Sept. 20, 2023, <https://www.nytimes.com/article/maui-wildfires-hawaii.html>.

¹⁷ Peter Boylan, *No Timetable for Finding Cause of Lahaina Fire*, HAW. TRIB. HERALD, Sept. 15, 2023, <https://www.hawaiitribune-herald.com/2023/09/15/hawaii-news/no-timetable-for-finding-cause-of-lahaina-fire/>.

¹⁸ <https://governor.hawaii.gov/newsroom/2023-42-attorney-general-lopez-selects-uls-fire-safety-research-institute-to-conduct-thorough-investigation-into-maui-fires/>

¹⁹ Diane Ako, *PUC Makes First Mention of HECO and Fired, But Not as Official Investigation*, KITV, Sept. 13, 2023, https://www.kitv.com/news/puc-makes-first-mention-of-heco-and-fires-but-not-as-official-investigation/article_05cdc4fa-529e-11ee-b51e-67955290066e.html.

²⁰ Cnty. of Maui, *supra* note 2.

²¹ Complaint at 18, Cnty. Of Maui v. Maui Electric Co., 2CCV-23-0000238 (Cir. Ct. 2d. Cir. Haw. 2023).

²² *See id.* at 22, 23, 28-39.

defendants failed properly to maintain and protect their electric infrastructure by not taking precautions such as removing nearby vegetation and insulating powerlines.²³ Hawaiian Electric acknowledged its powerlines ignited a fire on the morning of August 8, 2023, but maintains its lines were deenergized when the afternoon fire that struck Lahaina occurred.²⁴ Several victims have also filed their own lawsuits.²⁵

Speculation – accompanied by news reports and eyewitness accounts – about the cause of the fires and about responsibility for their catastrophic spread continues. As noted above, Maui County maintains that Hawaiian Electric mismanaged its power lines.²⁶ Nonnative grasses have also proliferated on Maui in recent years, potentially fueling the rapid spread of fires.²⁷ Others assert that Hawaiian Electric failed to prepare its equipment for the threat of wildfires and to adopt appropriate emergency plans.²⁸

D. Related Committee Activity

On August 30, 2023, Chairs McMorris Rodgers, Duncan, and Griffith sent a letter to Hawaiian Electric, HPUC, and the Hawai'i State Energy Office requesting more information from these parties about the sequence of events regarding the fire, actions taken to minimize fire risk and mitigate invasive grasses and other vegetation, and funding received under the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022.²⁹ The Chairs highlight reports of the growing threat of wildfires and questions surrounding the status of Hawaiian Electric's actions to harden and modernize the Maui grid.³⁰ The Subcommittee plans to discuss these responses at the hearing.

III. DISCUSSION

The Subcommittee plans to hold this fact-finding hearing to learn more about this event and the potential role of electric infrastructure. Discussion may include the following topics:

- The sequence of events surrounding the Maui fires.
- Utility infrastructure conditions that may have exacerbated the risk of a catastrophic fire.
- Hawaiian Electric's actions and plans to address fire risks, maintain its equipment, and secure the grid against intensifying threats such as wildfires.

²³ *See id.* at 30.

²⁴ Hassan, *supra* note 17.

²⁵ Ivan Penn, *After Maui Wildfire Disaster, a War of Words Over its Cause*, N.Y. TIMES, Aug. 28, 2023, <https://www.nytimes.com/2023/08/28/business/energy-environment/hawaiian-electric-maui-wildfire.html>.

²⁶ Hassan, *supra* note 17.

²⁷ Simon Romero and Serge F. Kovalski, *How Invasive Plants Cause the Maui Fires to Rage*, N.Y. TIMES, Aug. 13, 2023, <https://www.nytimes.com/2023/08/13/us/hawaii-wildfire-factors.html> (last updated Aug. 15, 2023)

²⁸ Ivan Penn and Peter Eavis, *Hawaiian Electric Was Warned of Its System's Fragility Before Wildfire*, N.Y. TIMES, Aug. 19, 2023, <https://www.nytimes.com/2023/08/19/business/energy-environment/hawaiian-electric-maui-wildfire-climate-change.html>.

²⁹ Letter from Cathy McMorris Rodgers, Chair, House Energy and Commerce Committee et al., to Shelee Kimura, President and Chief Executive Officer, Hawaiian Electric, et al. (Aug. 30, 2023), *available at* https://d1dth6e84htgma.cloudfront.net/08_30_23_E_and_C_Letter_Kimura_Asuncion_Glick_44f76f7025.pdf.

³⁰ *Id.*

- The status of any efforts to harden and protect Maui's grid against wildfires.
- Prioritization of fire safety precautions among competing priorities for grid modernization and improvement.

IV. STAFF CONTACT

For questions regarding this hearing, please contact Sean Brebbia or Christen Harsha of the Subcommittee on Oversight and Investigations staff at (202) 225-3641.