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September 24, 2024

Derek Alkonis  
Research Program Manager  
UL Fire Safety Research Institute  
Underwriters Laboratories Inc.  
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Re: Fire Safety Research Institute Phase Two Report

Dear Derek:

I am the Vice President, Government and Community Relations & Corporate Communications at the Hawaiian Electric Company, Inc. ("Hawaiian Electric"). I write today regarding certain findings and statements in UL Fire Safety Research Institute's ("FSRI") Phase Two Report issued on September 13, 2024, regarding the government's preparedness for and response to the August 8, 2023, Lahaina fires. Hawaiian Electric appreciates the magnitude of FSRI's task and is grateful for its work in service of the goal of averting similar events in the future and improving government preparedness and response.

While the vast majority of FSRI's Phase Two Report appropriately focuses on the State, the County, and their agencies, there are certain portions that mention Hawaiian Electric. Some of the statements about Hawaiian Electric either lack material context or are inaccurate. Because this document is such an important part of the public record examining the actions taken on August 8, 2023, I write today to bring these issues to your attention, to provide information that was not reflected in your report, and to request corrections and clarifications on certain elements of the report.

**A. Hawaiian Electric's Lines in West Maui Were Not Energized When the Lahaina PM Fire Started**

The Phase Two Report makes clear that an analysis of the cause of the fires is outside its scope. The report repeatedly states that it "does not include an analysis of recovery efforts *or the fire's cause and origin*." (P. 3 (emphasis added); *see also* P. 26 (same), P. 29 (same), P. 49 (same), P. 194 ("This work is not an origin-and-cause investigation")). Yet, Section 3.4 makes a passing assertion that it "appears that downed wires and related arcing may have caused additional fires across Lahaina, throughout the duration of the Lahaina PM fire." (P. 69.) The assertion about "additional fires" is not supported by citation to any factual material, and appears to be outside of the scope of your report.

The assertion also contradicts the available evidence, which Hawaiian Electric has provided to both you and the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) in the course of ATF’s origin and cause investigation. That information conclusively confirms what Hawaiian Electric has stated publicly multiple times since August 2023: that its lines serving customers in West Maui *were not energized* starting around 6:40 a.m. on August 8. Hawaiian Electric’s lines were not energized in the afternoon when the Lahaina PM fire ignited, and power was not restored to customers in West Maui for several days. Hawaiian Electric stated as much to FSRI, in writing, in response to information requests that FSRI posed a year ago, on September 19, 2023. We are enclosing the charts that we have provided to the ATF at its request demonstrating that the power to customers in West Maui was off at the time of the Lahaina PM fire (see Exhibit A<sup>1</sup>), and are happy to discuss or explain this documentation if that would be helpful.

Given these facts, it does not appear possible that “downed wires and related arcing” caused “additional fires” in the afternoon in Lahaina. If you have evidence to the contrary, we request that you please provide it to us so we can consider it. Otherwise, we ask that you issue a correction and remove this statement, which has the potential to create public confusion on a matter of great importance.

Relatedly, the Phase Two Report also seems to conclude in Section 3.4 that the Lahaina AM Fire became the Lahaina PM Fire in stating that a “small vegetation fire sparked by a downed line would ultimately become an urban conflagration.” (P. 69.) We do not understand this to be a conclusion of the Phase Two Report, given it repeatedly disclaims being an origin and cause report. We would therefore request that you remove this statement as well.

Hawaiian Electric further notes that Section 3.4 repeatedly conflates distribution and transmission lines in its description of the Lahaina AM Fire. Nobody has asserted that transmission lines were involved in the ignition of the Lahaina AM Fire.

## **B. Hawaiian Electric Had a Preparedness and Response Strategy**

In Section 3.4.4.3, the Phase Two Report implies that Hawaiian Electric lacked a coordinated strategy and procedures for responding to emergency situations. The Phase Two Report references Maui Fire Department’s (“MFD”) and Maui Police Department’s (“MPD”) Incident Command Posts (“ICP”) without reference to Hawaiian Electric’s own incident response procedures and structures. This makes some sense, given that the focus of your investigation was on State and County preparedness and response.

Nevertheless, Hawaiian Electric wants to highlight that it had, and has, a preparedness and response strategy that the Phase Two report does not mention. As one example, Hawaiian Electric has a procedure for standing up its own Incident Management Team (“IMT”) to prepare for and respond to emergency situations, which it activated to respond to the windstorm that affected Maui on August 8, 2023. These procedures are contained in Hawaiian Electric’s Electrical Service Restoration Plan (“ESRP”), which Hawaiian Electric both provided and explained in its March 1, 2024 response to FSRI Request 11. The Phase Two Report notes

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<sup>1</sup> Please note documents in Exhibit A were provided to ATF with confidential treatment requested and marked “confidential.”

in Section 3.4.4.1 that Hawaiian Electric’s staffing was normal before the August 7–8 windstorm event, but we think it is important to note that Hawaiian Electric had activated its IMT by early in the afternoon on August 8, 2023, before the Lahaina PM Fire started.

More broadly, the implication that Hawaiian Electric failed to make preparations for the windstorm is misleading and overlooks operational responses that Hawaiian Electric undertook before the historic windstorm. Hawaiian Electric, for example, implemented its Reclose Blocking Procedure on Maui by the morning of August 7, 2023. Hawaiian Electric provided FSRI with a copy of the version of the Reclose Blocking Procedure in effect as of August 8, 2023, in its March 1, 2024 response to FSRI Request 11. Pursuant to the Reclose Blocking Procedure, System Operations personnel disabled automatic reclosing on a preset list of circuit breakers and reclosers on Maui after the Red Flag Warning was issued. The Reclose Blocking procedure reduces the likelihood of electrical facilities igniting a fire by preventing specified devices from attempting to reclose and re-energize a circuit in the event that a protective device operates to de-energize a line in a fault condition. The Procedure requires that circuits with reclosing blocked that trip offline under fault conditions are manually re-energized only after they have been inspected and found “clear and intact.”

**C. Hawaiian Electric Always Strives to Coordinate with First Responders and Provide Them the Most Accurate Information**

Sections 3.4.4.1 through 3.4.4.4 of the Phase Two Report critique the way that Hawaiian Electric interacted with Maui County first responders. While Hawaiian Electric strongly agrees that coordination between it and government first responders is critical, we write to clarify some of the statements you make in these sections.

Hawaiian Electric appreciates that you acknowledged that it had a representative in the County Emergency Operations Center (“EOC”) starting at 5:15 a.m. on August 8, 2023. Nevertheless, the report recommends, including in Finding 64, that Hawaiian Electric should also have representatives in both the MPD and MFD ICPs. Hawaiian Electric would be open to sending a representative to an ICP when asked. But to be clear, neither the MPD nor the MFD invited Hawaiian Electric to send a representative to the ICP on August 8, 2023.

Moreover, having a representative in an ICP would *not* eliminate the need to check with the Hawaiian Electric control room to determine whether particular lines are energized or not. In the vast majority of situations, first responders and the public should treat downed lines as energized, as the report acknowledges (P. 97).<sup>2</sup> When first responders have a particular question about a particular line or area, the best practice is to call the control room so that Hawaiian Electric can provide the most up-to-date information from the personnel who are operating the grid. The MPD and MFD know to call the control room to ask about particular

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<sup>2</sup> While the Phase Two Report states that Hawaiian Electric does not have written policies for working around downed electrical equipment, that is not true. These guidelines are available to the public and first responders alike on Hawaiian Electric’s website. <https://www.hawaiianelectric.com/safety-and-outages/electrical-safety/downed-power-line-safety>.

lines and know the phone number for the control room, as evidenced by the multiple calls they made on August 8 which you reproduced in your Phase One report (P. 235–36).

Had MPD or MFD wanted Hawaiian Electric to de-energize specific lines or areas in Lahaina for safety, Hawaiian Electric would have done so. For example, in the two instances when MPD and MFD requested lines be de-energized in the Lahainaluna Road area at 6:40 a.m. and 4:11 p.m., a Maui Electric dispatcher confirmed the power was already off. Maui Electric separately informed MPD and MFD these lines were de-energized at 9:36 a.m.

Even though MPD and MFD appear to have followed best practices in each of these instances and called into the Hawaiian Electric control room to ask grid operators about whether certain lines or areas were energized, your Phase Two Report criticizes Hawaiian Electric’s communications as “indicat[ing] a measure of uncertainty” and states that they “may not have instilled confidence.” (P. 98.) Respectfully, we believe this characterization is unfair, and ask that you remove it from the report. It appears to be based on a single conversation, where a Hawaiian Electric employee in the control room double checked whether it was ok for cars to drive over downed lines in Lahaina. MPD first asked if lines were de-energized at a specific location. The dispatcher responded, “Yes.”<sup>3</sup> The dispatcher then explained that the lines were not grounded and should not be touched. When the MPD indicated that they needed to drive over the lines in order to evacuate, the Hawaiian Electric dispatcher checked with a colleague before definitively stating “Yea, you can have them run over them.”

This indicates that Hawaiian Electric was being careful, not that it was uncertain. The dispatcher checked with a colleague to answer a specific question about an emergency situation that involved deviation from normal advice. Further, the reliance on this one example overlooks multiple instances when Hawaiian Electric explicitly informed MPD and MFD that West Maui was fully de-energized. Any suggestion you may have received from MPD or MFD that they were confused about whether lines in West Maui were energized is contrary to the facts.

Further, your characterization that the information provided was “inconclusive” (P. 98) is inaccurate and we ask that you remove it as well. The information Hawaiian Electric’s control room delivered was definitive: “everybody is de-energized in Lahaina” (Phase One Report, P. 235). The power was off. The MPD dispatch officer on the line does not ask for further clarification, as she would have had she been confused. There was nothing “inconclusive” about the information provided, and your report provides no such examples.

#### **D. Landowners Generally Are Responsible for Vegetation on Their Property**

The Phase Two Report notes that regulations around vegetation management are under-developed in Hawaii. In particular, we wanted to make you aware that Hawaiian Electric’s overhead lines generally run over property that Hawaiian Electric does not own and the authority granted to Hawaiian Electric to manage vegetation on such property is limited under its easements. Section 3.3.3 (“Fuel Management Around Electric Infrastructure”), for

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<sup>3</sup> The ultimate response “Yea. You can have them run over the lines” is highlighted red to indicate that “power supply is cut off” in Table 3.4.4.2.1. The Table fails to likewise highlight the prior response of the Hawaiian Electric dispatcher confirming that lines were de-energized.

example, implies vegetation management beneath power lines is the responsibility of the utility rather than landowner. This is misleading, and misassigns responsibility given that Hawaiian Electric's easements generally do not grant Hawaiian Electric the right to clear vegetation that is not in the way of its overhead electrical equipment, and, as you point out, there are not clear laws and regulations governing vegetation management.

Elsewhere, in Section 3.4.4.1, the Phase Two Report analyzes the adequacy of vegetation management around utility poles based on pre-fire Google street view photos for which no dates are provided. It appears that many of these photos were taken years earlier and may not reflect conditions in August 2023. Further, this section of the report again overlooks the limited scope of Hawaiian Electric's easements and lack of statutory authority, which vary significantly from those of California-based and other mainland utilities. In most instances statute, regulation, and land agreements do not extend clear authority to Hawaiian Electric to clear ground vegetation surrounding utility poles. Given the existing rules around vegetation management in Hawaii, we do not think it is fair to critique Hawaiian Electric for not clearing vegetation on land it does not own.

While we provided FSRI on July 25, 2024, with Hawaiian Electric's Tri-Company Vegetation Management Procedures, you did not ask for land use agreements or information about the scope of Hawaiian Electric's authority to perform vegetation management. Hawaiian Electric provided via email on July 23, 2024, a letter dated September 19, 2023, that was sent by Shelee Kimura to the Hon. Jeff Duncan, Hon. Cathy McMorris Rogers, and Hon. H. Morgan Griffith that explained some of the rules and limits around vegetation management in Hawaii. This letter states that Hawaiian Electric's vegetation management program "seeks to minimize line and facilities contact...from the immediate vicinity of overhead electrical conductors." Ms. Kimura's letter further notes that "[b]ecause land is limited in Hawai'i, utility easements are generally more restrictive as compared to the mainland U.S. in terms of the radius in which vegetation clearance is allowed." We did not see this explanation referenced in your Phase Two Report.

#### **E. More Information Around Your Findings and Recommendations as to Hawaiian Electric**

The vast majority of the Phase Two Report's findings and recommendations are directed to the State and County, which makes sense given the report's focus. Hawaiian Electric appreciates the findings and recommendations of the Phase Two Report, many of which represent important steps for improving emergency management and response in Hawai'i. Ten of the 84 are directed, in whole or in part, to Hawaiian Electric. Hawaiian Electric saw these findings and recommendations for the first time when the Phase Two Report was issued, as you did not preview these specific findings and recommendations to Hawaiian Electric in advance. Hawaiian Electric wishes to bring to your attention several issues surrounding the findings and recommendations where Hawaiian Electric is identified as the relevant audience.

- Findings 28 and 31 concern Hawaiian Electric's pre-event staffing plan. While Hawaiian Electric is always willing to re-evaluate its preparedness planning in light of new information, these findings fail to acknowledge that Hawaiian Electric had stood up its IMT to address damage from the August 8 windstorm. Moreover, Hawaiian Electric has already implemented some of the

recommendations associated with Finding 28, including implementing spotters (which it implemented in August 2023) and artificial intelligence-enabled cameras. Hawaiian Electric has additionally established a 24/7 wildfire-focused watch office, deployed weather stations, enabled fast-trip settings and reclose blocking, as well as a host of additional measures as part of its Interim Wildfire Safety Measures (“IWSM”), none of which were reflected in the report. See [https://www.hawaiianelectric.com/documents/safety\\_and\\_outages/wildfire\\_safety/20240209\\_interim\\_wildfire\\_safety\\_measures.pdf](https://www.hawaiianelectric.com/documents/safety_and_outages/wildfire_safety/20240209_interim_wildfire_safety_measures.pdf).

- Finding 29 contends that there is a “lack of electrical utility vegetation abatement regulations and enforcement,” yet directs this finding, in part, to Hawaiian Electric. As you know, Hawaiian Electric cannot implement vegetation management rules on its own. Hawaiian Electric will work with the Hawai‘i Public Utilities Commission, the Hawai‘i State Legislature, and other local government bodies to develop regulations, as appropriate.<sup>4</sup>
- Finding 30 recommends that Hawaiian Electric initiate a Public Safety Power Shutoff (“PSPS”) program. Hawaiian Electric had already done so at the time the report issued, having proactively done so on June 30, 2024. See <https://www.hawaiianelectric.com/safety-and-outages/wildfire-safety/public-safety-power-shutoff>. This is a matter of public record and was covered extensively in the media. The Phase Two Report fails to note that Hawaiian Electric had already satisfied this recommendation.
- Finding 37 states that only one siren from the government’s All-Hazard Outdoor Warning Siren System was operable in Lahaina on August 8, 2023. It is not clear why this finding is directed to Hawaiian Electric, which does not own, operate, or maintain this warning system. In any event, given that power may fail in emergencies (or may be turned off proactively as part of a PSPS), all of these towers should have battery backup, which would be the responsibility of the government agency charged with operating and maintaining these sirens.
- Finding 41 states that the MPD and MFD never established a unified command. Again, it is unclear why this finding was directed to Hawaiian Electric. Hawaiian Electric has no control over whether the MPD and MFD do or do not establish a unified command. Hawaiian Electric remains available to assist MPD and MFD as called upon, as it did on August 8, 2023.
- Finding 59 states that the MFD did not have an organizational plan for high wind events. Again, it is unclear why this finding was directed, in part, to Hawaiian Electric, which has no control over MFD’s planning.

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<sup>4</sup> We do not understand the Phase Two Report to offer any assessment of the scope or management of Hawaiian Electric’s vegetation management program.

Hawaiian Electric can provide additional documentation or references regarding any of these issues upon request. If you have any further questions, please do not hesitate to reach out. We remain available to discuss the important issues raised in this letter.

Sincerely,



James P. Kelly

cc: Nicholas D. Fram, Munger, Tolles & Olson