

March 11, 2022

MS. KELLY TAKAYA KING, Chair
Climate Action, Resilience, and
Environment Committee

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

Re: BILL 21 (2022), SEABIRD AND BIODIVERSITY PROTECTION (CARE-74)

Dear Councilmember King:

Pursuant to your correspondence dated February 28, 2022 requesting a review of Bill 21 (2022), Seabird and Biodiversity Protection, this letter is submitted on behalf of Hawaiian Electric to provide comments with respect to Bill 21. As noted in your letter, Hawaiian Electric provides for the installation and maintenance of streetlights on most roadways within Maui County.

The most significant aspect of Bill 21, as drafted, is the requirement concerning outdoor lighting fixtures:

D. All outdoor lighting fixtures installed after enactment of the ordinance establishing this subsection, including above water swimming and decorative pool lighting, must be filtered light emitting diode fixtures that limit short wavelength content to no more than 5 percent of visible emissions less than 550nm.

We offer the following comments to the above noted requirement:

- 1) Hawaiian Electric follows customer specifications regarding fixture choices. It is Hawaiian Electric's understanding that the existing lighting fixtures for roadway lighting within Maui County including both High Pressure Sodium and light emitting diode (LED) lights do not meet the specifications set forth in the proposed ordinance. This would also include a significant number of LED lights already purchased by the County that are in storage pending an Environmental Review that is discussed below.
- 2) Additionally, Hawaiian Electric has made inquiries to its vendors and they indicated that light fixtures meeting these requirements are not available and, if feasible, would have to

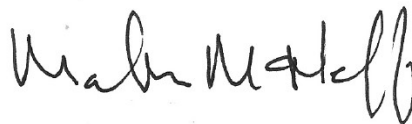
be custom designed. It was also established during the recent LED light litigation involving the County and Earth Justice that the use of any filters on the existing LED lights was impracticable and will void any necessary warranties.

- 3) Because the existing lights do not meet the proposed standard in Bill 21, the restrictions of the ordinance would also make necessary replacements for existing non-working fixtures that are required to be maintained for public safety difficult. It is not clear that any current exemptions in the code would address this issue.
- 4) As written, this ordinance may also affect the lights that are installed at facilities around the island including the remainder of Hawaiian Electric facilities on Maui which are already in compliance with dark sky requirements.
- 5) It is Hawaiian Electric's understanding that similar issues concerning the use of LED lights is being addressed by an Environmental Assessment under Chapter 343, the Hawai'i Environmental Policy Act (HEPA), by the County that would be subject to public scrutiny and may be an existing procedure that might result in additional public input and could result in requirements that are distinct from those set out in the ordinance.
- 6) Hawaiian Electric has not reviewed any documents in the context of this ordinance that identify the basis for the wavelength limitation and would suggest that the low levels of lights that are being required should also be reviewed in the context of the underlying safety issues associated with streetlights.

In conclusion, Hawaiian Electric is concerned that it may be difficult to meet the requirements set out in Bill 21 and is not clear on the basis of the specifications contained in the ordinance. Further, given that the County of Maui is already in the process of addressing these issues in a public forum under the Chapter 343 procedure, it may be worth coordinating this ordinance with that process.

Hawaiian Electric would be pleased to answer any questions that you may have in regard to our comments. We appreciate the opportunity to provide input into the Council's proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read "Mathew McNeff", with a stylized, cursive script.

Mathew McNeff