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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.)

DOCKET NO. 04-0021

For Approval to Commit Funds)
in Excess of \$500,000 for)
Item P0000886, Wal-Mart Sam's)
Keeaumoku Project; for Waiver)
of Rule 13; and for Waiver of)
Section 2.3.g.2 of General)
Order No. 7.)

ORDER NO. 20837

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DIV OF CONSUMER ADVOCACY
DEPT OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed March 5, 2004
At 2:00 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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I.

By application filed on January 22, 2004, HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") requests commission approval to commit approximately \$2,049,905 for Item P0000886, Wal-Mart/Sam's Club Keeaumoku project ("Proposed Project"). HECO's request is made pursuant to section 2.3.g.2 of the commission's General Order No. 7, Standards for Electric Utility Service in the State of Hawaii ("G.O. No. 7").

Pursuant to section 1.2.b of G.O. No. 7, HECO seeks a waiver of the section 2.3.g.2 requirement that its application "be submitted to the commission for review at least 60 days prior to the commencement of construction or commitment for expenditure,

whichever is earlier" ("60-day Notice Period"). HECO also seeks a waiver of Rule No. 13 of its Tariff to allow HECO to pay a portion (approximately \$556,800) of underground conversion costs related to the Proposed Project, which costs are normally paid for by the customer.¹

The instant order, thus, only addresses HECO's requests for a waiver of the section 2.3.g.2 applicable requirement and waiver of Rule No. 13 of its Tariff, and does not make a determination on HECO's request to commit funds for the Proposed Project.

II.

Background

A.

The Proposed Project was initiated upon the request of the general contractor of the Keeaumoku Wal-Mart/Sam's Club development, Dick Pacific Construction Company, Ltd. ("Dick Pacific"). The area to be developed is bounded by Keeaumoku, Makaloa and Rycroft streets. The Proposed Project affects existing businesses in the area as well as the Keeaumoku Wal-Mart/Sam's Club development.

¹Rule 13.D.4 states:

"When mutually agreed upon by the customer or applicant and [HECO], overhead facilities will be replaced with underground facilities, provided the customer or applicant requesting the changes makes a contribution of the estimated cost installed of the underground facilities less the estimated net salvage of the overhead facilities removed."

Work for the Proposed Project includes: (1) conversion of the 12 kilovolt ("kV") and secondary overhead facilities on Keeaumoku Street, from Makaloa Street to Rycroft Street, to 25kV and secondary underground facilities; (2) installation of 12kV underground facilities along Keeaumoku Street to maintain the existing 12kV services to customers located on the Diamond Head side of Keeaumoku Street; (3) installation of 25kV underground facilities along Rycroft Street to the HMSA building; and (4) conversion of the HMSA service from 12kV to 25kV.

The Proposed Project is necessary to accommodate the electrical needs of the Wal-Mart/Sam's Club project and to maintain the electricity needs of surrounding businesses. Additionally, HECO expects that its 25kV underground lines will be able to accommodate future large developments in the area.

HECO explains that the 12kV overhead work is for the riser poles to connect the 12kV underground system to the existing 12kV overhead system; the 12kV underground work is to maintain the existing 12kV connection on the corner of Rycroft Street and Keeaumoku Street and to maintain the existing 12kV services to the customers on the Diamond Head side of Keeaumoku Street. The 25kV underground work is for the installation of 25kV underground facilities on Keeaumoku Street and Rycroft Street. The work on Rycroft Street is to convert the HMSA service from 12kV to 25kV.

B.

HECO represents, by a letter filed with the commission on February 19, 2004, that the Consumer Advocate does not object to

HECO's requests for a waiver of the 60-day Notice Period and of Rule No. 13 of its Tariff. The Consumer Advocate does, however, reserve the right to complete a review of the instant application and to state its position on the merits of the application based upon this review.

Upon review, the commission finds good cause to approve HECO's requests for a waiver of the 60-day Notice Period for the commitment of funds and of Rule No. 13 of its Tariff which would allow HECO to pay for a portion of the underground conversion costs normally paid for by the customer.

Waiver of the 60-day Notice Procedure would allow HECO to commit funds for the Proposed Project on or around March 1, 2004, as requested by HECO. Additionally, the commission recognizes, as described by HECO in the instant application, the dispute surrounding costs associated with the underground relocation of the utility lines between the City and County of Honolulu, HECO and Dick Pacific.² The commission also recognizes that notwithstanding this dispute, the parties involved in the development of the Proposed Project do not wish to delay its development with disagreements over relocation costs and wish to avoid additional costs and litigation expenses. HECO, thus, along with Dick Pacific and Verizon Hawaii Inc. have entered into an

²The dispute involves what HECO alleges to be an error in the codification of the applicable Revised Ordinances of Honolulu and the existence of a perpetual easement in HECO's favor for utility lines located in Keeaumoku Street. HECO, along with Verizon Hawaii Inc., contends that the ordinances in question do not require the underground placement of utilities, but merely the aboveground relocation of these lines. Moreover, Dick Pacific apparently has relied upon a reading of the relevant ordinance, which would place the costs for undergrounding the lines on the utility.

agreement for the payment of the undergrounding costs, resulting in HECO's request to waive its Rule No. 13.

The commission emphasizes that this order does not constitute a decision on the merits of HECO's application. As HECO acknowledges in its application, if the commission does not approve the commitment of funds, HECO will have the burden of proving in its next rate case "that the property has become necessary or useful for public utility purposes". Finally, the commission finds that HECO shall not recover from ratepayers HECO's contribution to the Proposed Project costs resulting from the Rule No. 13 waiver until approval for such recovery is granted by the commission in HECO's next rate increase proceeding.

III.

Orders

THE COMMISSION ORDERS:

1. HECO's request for a waiver of the section 2.3.g.2 requirement to file its application at least 60 days prior to the commencement of construction or commitment for the expenditure of funds, filed on January 22, 2004, is approved.

2. HECO's request for a waiver of Rule No. 13 of its Tariff, to allow HECO to pay a portion of the underground conversion costs normally paid for by the customer, filed on January 22, 2004, is approved. HECO shall not recover from ratepayers its contribution resulting from the Rule No. 13 waiver unless approval for such recovery is granted by the commission in HECO's next rate proceeding.

DONE at Honolulu, Hawaii this day of March, 2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
Wayne H. Kimura, Commissioner

By _____
Janet E. Kawelo, Commissioner


APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

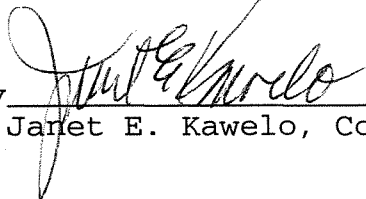
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DONE at Honolulu, Hawaii this 5th day of March, 2004.

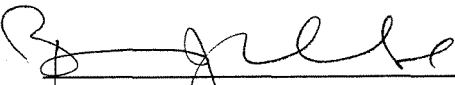
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Benedyne S. Stone
Commission Counsel

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CERTIFICATE OF SERVICE

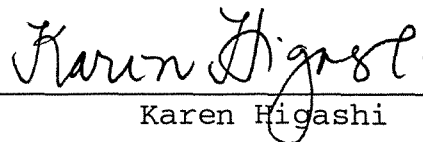
I hereby certify that I have this date served a copy of the foregoing Order No. 20837 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DIVISION OF CONSUMER ADVOCACY
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Karen Higashi

DATED: March 5, 2004