

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
MAUI ELECTRIC COMPANY, LIMITED )  
For Approval to Commit Funds in )  
Excess of \$500,000 for Project )  
M0000 410, Launiupoko 69 kV Line )  
Relocation, Relocation of an )  
Existing Overhead Transmission )  
System. )  
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DOCKET NO. 03-0396

DECISION AND ORDER NO. 20924

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DEPT. OF PUBLIC UTILITIES  
REGULATORY AFFAIRS  
STATE OF HAWAII

Filed April 23, 2004  
At 9:00 o'clock A.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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OF THE STATE OF HAWAII

In the Matter of the Application of)	
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DECISION AND ORDER

I.

Application

By an application filed on November 20, 2003, ("Application"), MAUI ELECTRIC COMPANY, LIMITED ("MECO") requests commission approval to commit approximately \$1,672,591 for Project M0000410, Launiupoko 69 kilovolt ("kV") Line Relocation, Relocation of an Existing Overhead Transmission System ("Proposed Project"). MECO's request is made pursuant to paragraph 2.3.g.2 of the commission's General Order No. 7 ("G.O. No. 7"), Standards for Electric Utility Service in the State of Hawaii and Hawaii Revised Statutes ("HRS") § 269-27.6.

MECO served copies of the application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (Consumer Advocate). Pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62, the Consumer Advocate is an *ex officio* party to this proceeding.

The commission issued information requests ("IRs") to MECO on December 17, 2003, to which MECO provided responses on January 15, 2004.

On January 6, 2004, the commission held a public hearing on the Application at the State Office Building, Conference Room B in Wailuku, Maui, in accordance with HRS § 269-27.5.

The Consumer Advocate issued its IRs to MECO on January 16, 2004. MECO filed responses to these IRs on February 6, 2004 ("Response to CA-IR").

By Order No. 20802, filed on February 12, 2004, the commission granted MECO's request to extend the G.O. No. 7, section 2.3.g.2 requirement that the commission issue a decision within 90 days of the filing of an application, from February 18, 2004, to March 22, 2004.<sup>1</sup>

In telephone conversations with MECO on February 20 and 24 and March 3, 2004, the Consumer Advocate posed informal IRs to MECO. MECO provided written responses to these informal IRs on March 8, 2004 ("Response to Informal CA-IR").

On March 11, 2004, the Consumer Advocate issued its statement of position ("SOP"), in which it stated that it did not object to the commission's approval of the Application.

By Order No. 20855, filed on March 19, 2004, the commission suspended MECO's Application, until further order of the commission.

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<sup>1</sup>MECO made its request to extend the G.O. No. 7, section 2.3.g.2 deadline by letter filed with the commission on February 9, 2004.

In a telephone conference with the Consumer Advocate, MECO and commission staff on March 23, 2004 and March 29, 2004, the commission posed informal IRs to MECO. MECO responded in writing to these informal IRs on March 24, 2004 ("Informal IR Response, March 24, 2004") and April 5, 2004 ("Informal IR Response, April 5, 2004"), respectively.

## II.

### Background

#### A.

The Proposed Project involves the relocation of approximately 22,400 circuit feet of the existing Lahaina One and Lahaina Two 69 kV overhead transmission lines ("Line Relocation"), located in Lahaina, Maui.<sup>2</sup> The Line Relocation involves the installation of approximately 19 steel poles,<sup>3</sup> ranging in height from 60-140 feet tall, 22,400 circuit feet of 652.4 kilocircularmils transmission conductors, and 11,200 feet of 336.4 millicircularmils ("MCM") static line. In addition, approximately 10,000 feet of 336.4 MCM static line will be installed to replace the existing static line for the Lahaina 3 transmission line. The Line Relocation has been requested by Makila Land Company, LLC ("Developer") in connection with

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<sup>2</sup>The Lahaina One and Lahaina Two 69 kV transmission lines are two of the three transmission lines serving the west side of Maui. The third 69 kV transmission line is the Lahaina 3.

<sup>3</sup>By letter filed with the commission on December 31, 2003, MECO informed the commission that the Proposed Project had been refined, and that MECO now proposed to install approximately 19 steel poles, not the 18 as noted in the Application.

Developer's proposed new subdivision, Mahanaluanui Subdivision Phase III ("Proposed Subdivision").

B.

The Lahaina One and Lahaina Two 69 kV transmission lines are currently installed on separate wood pole lines. The two (2) lines will be relocated above the ground in a mauka direction onto a single steel pole line with dual 69 kV circuits. The steel pole will re-connect with the existing wood pole lines at both ends of the relocation.

The current locations of the existing lines interfere with the Developer's Proposed Subdivision.<sup>4</sup> In accordance with a one-time relocation provision contained in the easement document between MECO and Pioneer Mill Company, Limited,<sup>5</sup> MECO is required to relocate the Lahaina One and Lahaina Two transmission lines.<sup>6</sup>

To facilitate the relocation, the Developer will give MECO a 100-foot wide perpetual easement, adjacent to the current Lahaina 3 Transmission Line easement. Under high wind conditions,

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<sup>4</sup>The Lahaina One and Lahaina Two transmission lines run through the existing Mahanaluanui Subdivision II and the Proposed Development. In some cases, the transmission lines would restrict the space available for the construction of new homes. See CA-IR-3a.

<sup>5</sup>Pioneer Mill Company, Limited, is the former owner, prior to Developer, of the subject property.

<sup>6</sup>See Exhibit III of the Application, p. 3-4. The relocation provision states, in relevant part, that where the Developer subdivides or develops parcels of land affected by the easement, and MECO's lines interfere with such subdivision or development, MECO will, at its own expense, relocate the lines, "to such substitute right-of-way as shall be furnished by [Developer] . . . provided that [MECO] shall not be required to make more than one such relocation . . . at its own expense."

this limited easement<sup>7</sup> could cause the existing static line of the Lahaina 3 to fall into the relocated lines of Lahaina One and Lahaina Two. To prevent what MECO calls a "blow out condition",<sup>8</sup> MECO will replace the Lahaina 3 static line with a new, heavier cable line. The Developer will pay the entire cost to replace the existing static line with the heavier cable.<sup>9</sup> MECO represents that with the heavier cable line, if the Lahaina 3 Transmission Line were to fail, it would not fall into the Lahaina One and Two transmission lines.<sup>10</sup>

### III.

#### Consumer Advocate

##### A.

In reviewing MECO's Application, the Consumer Advocate focused on the following: (1) whether the proposed Line Relocation is necessary and reasonable; (2) whether the proposed overhead location is reasonable; and (3) whether the estimated cost for the Proposed Project is reasonable.

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<sup>7</sup>MECO originally requested a 200-foot easement from the Developer, but was denied this because the Developer was concerned that a 200-foot easement would limit owners' utilization of their property. See Application at 6.

<sup>8</sup>MECO describes a "blow out" condition as a situation where high wind conditions cause the line from one circuit to blow into the line of another circuit. See Response to CA-IR-6.a.

<sup>9</sup>The total cost, including removal costs, to replace the existing static line, is \$13,537. See Response to CA-IR-7.b.

<sup>10</sup>See Application at 6.

B.

Whether the Proposed Line Relocation is Necessary and Reasonable

The Consumer Advocate finds that the proposed Line Relocation is necessary and reasonable. In reaching this finding, the Consumer Advocate considered easement and safety concerns with respect to the proposed Line Relocation. In particular, the existing transmission lines run through the center of the two subdivisions, and in some cases cross over individual lots.<sup>11</sup> The practical effect is that the existing transmission lines, if not relocated, will interfere with construction in the Proposed Subdivision. Additionally, MECO states that it will not allow homes to be constructed directly below the existing lines or in its easement, as this would create a potential safety hazard, thus adding a safety dimension to the issue of relocation.<sup>12</sup>

C.

Whether the Proposed Line Relocation Overhead is Reasonable

The Consumer Advocate considered the factors set forth in HRS § 269-27.6(a) to determine the reasonableness of the

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<sup>11</sup>See Response to CA-IR-3.a.

<sup>12</sup>Id.

proposed overhead Line Relocation,<sup>13</sup> and finds that: (1) the proposed Line Relocation will not result in additional visual obstruction in the subject area; (2) no other factors exist to support the underground placement of the Lahaina One and Lahaina Two transmission lines;<sup>14</sup> (3) there is no governmental policy requiring the underground placement of the subject transmission

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<sup>13</sup>In this regard, whenever a public utility applies to the commission for approval to place, construct, erect or otherwise build a new 46 kV or greater high-voltage electric transmission system, HRS § 269-27.6(a) requires the commission to determine whether the proposed system shall be placed overhead or underground. In making this determination, HRS § 269-27.6(a) requires the commission to consider certain factors:

1. Whether a benefit exists that outweighs the costs of placing the electric system underground;
2. Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;
3. Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding;
4. The recommendation of the Consumer Advocate; and
5. Any other relevant factors.

<sup>14</sup>In particular, the possible widening of the Honoapiilani Highway ("Highway") is too tentative to delay the Proposed Project for the possible underground placement of the Lahaina One and Lahaina Two transmission lines. Moreover, any relocation of the transmission lines along the Highway would cost more than the Proposed Project because of the need to extend existing lines to and from the Highway. See Response to CA-IR-9.d. Additionally, undergrounding the existing transmission lines within the subdivision is projected to cost \$3,706,326, compared to \$1,643,040 for an overhead relocation of the existing lines. See Exhibit VII to the Application.



lines;<sup>15</sup> and (4) no governmental agency or other party is willing to pay for the additional costs of undergrounding.<sup>16</sup> Accordingly, the Consumer Advocate concludes that the proposed overhead Line Relocation is reasonable.

D.

Whether the Estimated Cost for the Proposed Project is Reasonable

The Consumer Advocate does not object to the Proposed Project's estimated costs. However, it has expressed concern about MECO's choice of construction contractor for the Proposed Project without going through a competitive bid process.<sup>17</sup> Having said that, the Consumer Advocate does not object to approval of the Proposed Project, but reserves its right to review the final

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<sup>15</sup>A letter appealing to the commission to reject MECO's Proposed Project, dated January 6, 2004, was submitted by Maui Mayor Alan M. Arakawa. Mayor Arakawa cited Maui County's policy of encouraging the underground placement of electric lines. However, there is no county ordinance mandating the underground placement of electric lines.

<sup>16</sup>It appears that the County of Maui is unwilling to fund the cost of undergrounding the subject lines. See Response to CA-IR-19.

<sup>17</sup>In response, MECO asserts that it plans to award the contract for the Proposed Project to Aina Excavation & Grading ("Aina") for the following reasons: (1) Maui contractors who may be qualified to do the work lack either the experience or specialized equipment to perform the work efficiently; (2) a mainland contractor who did previous work on Maui for MECO is no longer in business; (3) using Oahu-based construction contractors would increase construction costs for the Proposed Project; (4) MECO's chosen contractor, Aina, has extensive experience in the construction and installation of steel poles, which will be used in the Proposed Project; (5) Aina's previous work for MECO met MECO's requirements; (6) Aina charges a fair and reasonable price for its work; and (7) Aina is the only company on Maui with the specialized equipment to do the work required on the Proposed Project. See Response to CA-IR-22-a and Response to Informal CA-IR-4.

cost report to review and quantify the reasonableness of the actual costs incurred to complete the project, and further, to pursue any issues regarding the reasonableness of the Proposed Project's costs in MECO's next rate proceeding.

The Consumer Advocate also reserves its right to review the reasonableness of MECO's stated Overhead and AFUDC costs. As discussed above, the Consumer Advocate is satisfied that its concerns can be addressed at the time the final cost report is submitted, or if necessary, in MECO's next rate proceeding.

#### IV.

##### Findings and Conclusions

Upon careful review, the commission finds the Proposed Project to be reasonable and consistent with the public interest. The Line Relocation is necessary to allow Developer to move forward with the Proposed Subdivision. Presently, the Lahaina One and Lahaina Two lines run through the existing and Proposed Subdivision, and in some instances, will interfere with the construction of new homes. Moreover, as noted above, MECO will not allow new homes to be constructed directly beneath the existing transmission lines.

The commission also finds that the proposed overhead Line Relocation is consistent with the objectives of HRS § 269-27.6(a). First, our review has not uncovered any benefit that will outweigh the costs involved in relocating the subject lines underground. As shown in Exhibit VII to the Application, the estimated cost to relocate the subject transmission lines

underground in the same alignment as proposed for the overhead relocation is estimated at twice the cost of the overhead relocation.

In addition to the greater cost, MECO cited several factors that illustrate the reasonableness of relocating the lines above, versus below, ground. For example, placing the existing lines below the ground, either using the existing 69 kV overhead line alignment, or along the existing roadways within the subdivision, would pose significant problems. For instance, MECO reported that there are structures on private property that any relocated underground lines would need to circumvent, along with existing underground facilities and an underground distribution system that MECO would have to avoid when laying its own lines below the ground.<sup>18</sup> MECO estimates that laying the lines below ground at the existing 69 kV line would cost approximately \$3.7 million,<sup>19</sup> and in existing roadways within the subdivision, an estimated \$2.7 million.<sup>20</sup>

Second, there is no government mandate, at the federal, state, or municipal level, which requires the underground placement of the subject lines.<sup>21</sup>

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<sup>18</sup>See Informal IR Response, March 24, 2004, Q2.

<sup>19</sup>Id.

<sup>20</sup>See Informal IR Response, April 5, 2004, Q6.

<sup>21</sup>In its SOP, the Consumer Advocate discusses attempts by the legislature of the State of Hawaii to implement measures requiring the undergrounding of all transmission lines. To date, no requirements have been enacted. See Consumer Advocate's SOP at 10.

Third, no governmental agency, nor any other party, has indicated a willingness to fund the costs of undergrounding.<sup>22</sup> Finally, the Consumer Advocate does not object to the commission's approval of MECO's application, subject to the reservations discussed in III.D, above. Accordingly, the commission concludes that the relocation of the Lahaina One and Lahaina Two, above ground, should be approved, pursuant to HRS § 269-27.6(a).

V.

Orders

THE COMMISSION ORDERS:

1. MECO's request to expend an estimated \$1,672,591 for Project M0000410, Launiupoko 69 kV Line Relocation, Relocation of an Existing Overhead Transmission System, is approved; provided that no part of the Proposed Project may be included in MECO's rate base unless and until the Proposed Project is in fact installed, and is used and useful for utility purposes.

2. MECO's request to relocate the 69 kV transmission lines, above ground, pursuant to HRS § 269-27.6(a), is approved.

3. MECO shall submit a report within 60 days of the completion of the Proposed Project, with an explanation of any deviation of 10 per cent or more in the Proposed Project's cost from that estimated in the Application. Failure to submit the report, as requested by this decision and order, will constitute

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<sup>22</sup>See 8, n.16. In addition, MECO has provided correspondence from the Developer indicating it will not pay for the cost of undergrounding. See Response to CA-IR-14.

cause to limit the cost of the project, for ratemaking purposes, to that estimated in the application.

DONE at Honolulu, Hawaii this 23rd day of April, 2004.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By Wayne H. Kimura  
Wayne H. Kimura, Commissioner

By Janet E. Kawelo  
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Benedyne S. Stone  
Benedyne S. Stone  
Commission Counsel

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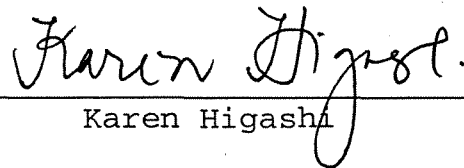
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20924 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
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PATSY NANBU  
DIRECTOR-REGULATORY AFFAIRS  
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Karen Higashi

DATED: April 23, 2004