

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
)
)
For Approval of Temporary Pole)
Attachments by the U.S. Army at its)
Makua Training Range.)
_____)

DOCKET NO. 04-0085

INTERIM ORDER NO. 20958

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

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RECEIVED

Filed May 3, 2004
At 3:00 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.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.) Docket No. 04-0085
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) Interim Order No. 20958
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INTERIM ORDER

I.

Expedited Request for Interim Approval

HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") seeks an expedited interim approval for the United States ("U.S.") Army to immediately and temporarily attach its fiber optic cable to three (3) HECO-owned poles located at the U.S. Army's Makua Training Range ("Makua facility") for a period of approximately thirty-six (36) months.¹ In support of its expedited request, HECO represents:

1. At the emergency request by the U.S. Army, HECO plans to allow the U.S. Army "to string an Army[-]owned fiber optic line along the HECO-owned (3) pole service drop across Farrington Highway into the Makua facility." Affidavit of Stephen W. Luckett, dated April 29, 2004 ("Luckett Affidavit"), ¶ 5.

¹See HECO's letter, dated and filed on April 30, 2004 ("HECO Letter").

2. The U.S. Army's "existing direct buried fiber optic line is damaged and this service is required as a back up in order to maintain 'mission essential' communications for safety and training purposes." *Id.*

3. The fiber optic line "is critical [to the U.S. Army] for communications and safety in their training area and will be temporary for a period of up to 36 months." *Id.*

4. "There are no other utilities on the HECO[-]owned poles (JP 201, JP1/201, JP2/201) located at 82-500 Farrington Hwy." *Id.*

5. The U.S. Army "has accepted all liabilities for the installation, operation and maintenance of their cable on to [HECO's poles]." *Id.*

6. "Granting of the requested interim approval will permit HECO to immediately authorize the [U.S.] Army to access the pole and limit the interruption of training vital to national security. With the requested interim approval, construction is expected to begin on or about May 3, 2004, and to be completed by May 7, 2004." *Id.*

7. A formal application for final approval of this matter will be submitted for commission approval as soon as possible in the near future. HECO Letter, at 1.

8. The Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs does not object to HECO's request for interim approval, but reserves the right to state its position with respect to the substance of HECO's formal application on this matter. HECO Letter, at 2.

II.

Discussion

Hawaii Revised Statutes ("HRS") § 269-19 provides that a public utility is prohibited from (among other things) selling, leasing, assigning, mortgaging, encumbering, or otherwise disposing of its property that is necessary or useful in the performance of its duties to the public, without first obtaining an order from the commission authorizing the public utility to do so. HRS § 269-19 further states that "[e]very such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission shall be void." The contents of an application of a public utility for such an order must satisfy the requirements of Hawaii Administrative Rules ("HAR") §6-61-105. However, the commission's rules "shall be liberally construed to secure the just, speedy, and inexpensive determination of every proceeding." HAR § 6-61-1.

In light of HECO's representations that the immediate and temporary attachments of the U.S. Army's fiber optic lines to HECO-owned poles are necessary for public safety and national security purposes, we find HECO's expedited request for interim approval to be reasonable and in the public interest. Thus, we conclude that HECO's April 30, 2004 request for interim approval to immediately and temporarily attach the U.S. Army's fiber optic lines to HECO-owned poles should be approved, subject to the following conditions:

1. HECO shall submit a written status report within ten (10) days from the date of this interim order indicating, at the very minimum, the date of completion of the temporary attachments; and

2. HECO shall submit a formal application in accordance with the applicable laws, rules and procedures relating to the above-referenced transaction within twenty (20) days from the date of this interim order.

Such approval is further conditioned upon HECO's compliance with the applicable laws, rules and regulations relating to the above-referenced transaction and any other terms, conditions, and requirements imposed subsequent to the commission's review and the Consumer Advocate's review of the merits of the formal application filed in this docket.

III.

Order

THE COMMISSION ORDERS that HECO's April 30, 2004 request for interim approval to immediately and temporarily attach the U.S. Army's fiber optic lines to HECO-owned poles is approved, subject to the following conditions:


1. HECO shall submit a written status report within ten (10) days from the date of this interim order indicating, at the very minimum, the date of completion of the temporary attachments;


2. HECO shall submit a formal application in accordance with the applicable laws, rules and procedures within twenty (20) days from the date of this interim order; and

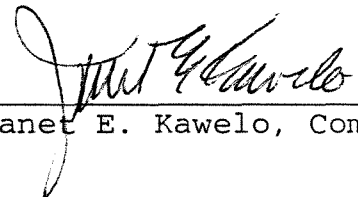
3. The commission and the Consumer Advocate reserve their right to review the merits of above-referenced transaction relating to the U.S. Army's attachments to HECO's poles subsequent to the submission of HECO's formal application in accordance with the applicable laws, rules and regulations.

DONE at Honolulu, Hawaii this 3rd day of May 2004.

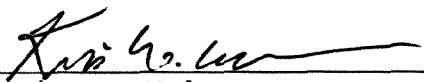
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne A. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kris N. Nakagawa
Commission Counsel

04-0085.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Interim Order No. 20958 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
P. O. Box 541
Honolulu, HI 96809

WILLIAM A. BONNET
VICE PRESIDENT - GOVERNMENT AND COMMUNITY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
Honolulu, HI 96840



Karen Higashi

DATED: May 3, 2004