

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For a Declaratory Ruling on the)
Applicability of Hawaii Revised)
Statutes Sections 269-27.5 and)
269-27.6 to Item P0000927, the)
Mililani Mauka Unit 134A)
(as Revised) Project.)
_____)

DOCKET NO. 04-0067

DECISION AND ORDER NO. 20997

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

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Filed May 21, 2004
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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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DECISION AND ORDER

I.

Background

For Item P0000927, the Mililani Mauka Unit 134A Project, as revised, HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") seeks a declaratory ruling that: (1) a public hearing is not required under Hawaii Revised Statutes ("HRS") § 269-27.5; and (2) HRS § 269-27.6(a) does not apply.¹ HECO makes its request for declaratory relief in accordance with Hawaii Administrative Rules chapter 6-61, subchapter 16.

In the alternative, if the commission concludes that:

1. A public hearing is required under HRS § 269-27.5, HECO requests that the commission conduct a public hearing; and
2. HRS § 269-27.6(a) applies, HECO requests that the commission "determine that the portion of the 46 kV line to be

¹HECO's petition, filed on April 12, 2004.

relocated for Item P0000927, Mililani Mauka Unit 134A (as revised), be constructed below the surface of the ground[.]"²

HECO served copies of its petition upon the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate").

On April 28, 2004, the Consumer Advocate, commission, and staff inspected the Project site. Representatives from HECO also attended. On May 12, 2004, the Consumer Advocate filed its position statement, finding that: (1) a public hearing is not required; and (2) HECO's proposal to relocate a portion of the existing 46 kilovolt ("kV") overhead transmission line to a new pole is reasonable.

II.

Mililani Mauka Project (Revised)

The Mililani Mauka Unit 134A Project, as revised ("Project"), involves the relocation of an existing segment of a 46 kV overhead line located near Koolani Drive and Ukuwai Street in Mililani Mauka. The subdivision's developer, Castle & Cooke, requests the relocation, and will finance the Project's entire cost, estimated at \$148,000.

HECO will:

1. Install a new 65-foot wood riser pole at one end of the existing 46 kV overhead alignment, near the northern end of Koolani Drive, near its intersection with Ukuwai Street. (See Exhibit 3 to HECO's petition, pink highlight.)

²Id. at 1.

2. Extend an existing underground ductline on Koolani Drive towards the intersection of Koolani Drive and Ukuwai Street. There will also be a short underground extension to the new 65-foot wood riser pole. (See Exhibit 3 to HECO's petition, yellow highlights.) This portion of the work will involve the installation of approximately 530 circuit feet of underground 46 kV cable, 360 feet of 4-5" underground ducts, and one (1) manhole.

3. Remove two (2) existing 65-foot wood poles, approximately 540 circuit feet of existing 46 kV overhead conductors, and approximately 220 circuit feet of existing 46 kV underground cables. (See Exhibit 3 to HECO's petition, blue highlights.)

No new overhead conductors will be installed.

III.

HRS §§ 269-27.5 and 269-27.6(a)

HRS §§ 269-27.5 and 269-27.6(a) state:

§269-27.5 Construction of high-voltage electric transmission lines; hearing. Whenever a public utility plans to place, construct, erect, or otherwise build a new 46 kilovolt or greater high-voltage electric transmission system above the surface of the ground through any residential area, the public utilities commission shall conduct a public hearing prior to its issuance of approval thereof. Notice of the hearing shall be given in the manner provided in [HRS] section 269-16 for notice of public hearings.

§269-27.6(a) Construction of high-voltage electric transmission lines; overhead or underground construction. (a) Notwithstanding any law to the contrary, whenever a public

utility applies to the public utilities commission for approval to place, construct, erect, or otherwise, build a new forty-six kilovolt or greater high-voltage electric transmission system, either above or below the surface of the ground, the public utilities commission shall determine whether the electric transmission system shall be placed, constructed, erected, or built above or below the surface of the ground; provided that in its determination, the public utilities commission shall consider: [four (4) enumerated factors, plus "[a]ny other relevant factors"].

HECO contends that a public hearing for the Project is not required under HRS § 269-27.5. It states:

1. "The overhead work (i.e., the one new riser pole) is the minimum amount of work necessary to transition the 46 kV underground extension to the existing 46 kV overhead line."³

2. "The new riser pole will be installed directly in-line with the existing overhead alignment, and the existing 46 kV conductors will be transferred and terminated onto the new riser pole."⁴

3. The underground relocation of part of an existing overhead 46 kV circuit, without a change in the alignment of the existing overhead 46 kV circuit, should not trigger the need for a public hearing.

4. The portion of the 46 kV line that will remain overhead has not been extended to a new location, and higher poles or longer conductor spans have not been substituted.

³Id. at 5.

⁴Id. at 6.

5. The visual impact should be reduced, since HECO "is installing one wood pole directly in-line with the existing alignment, while removing two wood poles, and installing approximately 530 circuit feet of new underground cables, while removing approximately 540 circuit feet of existing 46 kV overhead conductors and approximately 220 circuit feet of existing 46 kV underground cables."⁵

6. The distance between the 46 kV overhead line and the nearest existing homes "will actually increase, as the section of 46 kV line nearest to the existing homes will be placed underground."⁶

7. No new 46 kV overhead lines will be installed.

The Consumer Advocate concurs that a public hearing is not required by HRS § 269-27.5:

1. The Project is not a new construction project. Rather, the Project will merely relocate an existing 46 kV overhead transmission line, and "there will be no significant change to the facilities that would increase the visual impact (e.g., larger conductors, taller poles, etc.). In fact, visual impact will decrease or improve with the underground placement of a section of the relocated overhead transmission line and the overhead portion of the relocated line will be placed in the same route as an existing line."⁷

⁵Id.

⁶Id. at 7 (footnote and text therein omitted).

⁷Consumer Advocate's position statement, at 4.

2. "[T]he overhead portion of the relocated line will be placed slightly farther from the residential area."⁸

HECO also asserts that because the Project does not involve the construction of a new line, HRS § 269-27.6(a) doesn't apply. Instead, a portion of an existing 46 kV overhead line is being placed underground pursuant to the easement's relocation clause, and Castle & Cooke is paying for the relocation.

Nonetheless, HECO states that, if HRS § 269-27.6(a) applies, the Project meets subsection (a)'s requirements. In particular:

1. The relocated section of the 46 kV overhead line is being placed underground. Since one (1) pole is being installed directly in-line with the existing alignment and two (2) poles are being removed, the visual impact will decrease.
2. Castle & Cooke is paying for the Project's entire cost.

The Consumer Advocate offers no opinion on whether HRS § 269-27.6(a) applies. Instead, it finds the Project reasonable under a HRS § 269-27.6(a) analysis:

1. HRS § 269-27.6(a)(1): HECO represents that it is Castle & Cooke's policy to underground all overhead facilities in the Mililani Mauka area. The Consumer Advocate notes that:
(A) the developed areas do not have overhead utility facilities and the only vacant, undeveloped land has overhead facilities;
and (B) Castle & Cooke, it appears, "will eventually place the overhead portion of the relocated facilities in underground

⁸Id.

facilities when the next phase of the real estate development is pursued."⁹ Thus, the aerial portions of the Project are temporary structures.

2. HRS § 269-27.6(a)(2) and (3): While the Consumer Advocate is unaware of any governmental policy requiring the underground placement of electric transmission lines in the Project's area, it notes that: (A) the Project is consistent with Castle & Cooke's policy to underground all overhead facilities in the Mililani Mauka area; and (B) Castle & Cooke will fund the Project's entire cost.

3. HRS § 269-27.6(a)(4): The Consumer Advocate finds that the Project's design, "which consists of a combination of aerial and underground 46 kV transmission line work, is consistent with the area's plan and represents a reasonable approach to placing all transmission lines in underground facilities at some point in time."¹⁰

IV.

Discussion

A.

HRS § 269-27.5

The commission finds that the Project's scope of work will not involve the placement, construction, or otherwise building of a new 46 kV or greater "high-voltage electric transmission system above the surface of the ground through any

⁹Id. at 6.

¹⁰Id. at 7.

residential area[.]” Thus, HRS § 269-27.5 does not apply, and a public hearing is not required.

Above ground, HECO will: (1) remove two (2) existing wood poles and 540 circuit feet of existing 46 kV overhead conductors; and (2) install a new 65-foot wood riser pole at one end of the existing 46 kV overhead alignment that will be removed. The new riser pole will be installed farther away from the existing residences, situated along the southern corridor of Koolani Drive. Also, no new 46 kV overhead lines will be installed, as part of the Project. The visual impact upon the surrounding development will improve following the removal of the existing wood poles and 46 kV overhead conductors.

B.

HRS § 269-27.6(a)

The commission finds that the Project will not involve the placement, construction, or building of a new 46 kV or greater high-voltage electric transmission system, either above or below the surface of the ground. Instead, the Project is a reconfiguration of the existing system. Thus, HRS § 269-27.6(a) does not apply.

V.

Declaratory Ruling and Order

THE COMMISSION DECLARES that, under the facts and circumstances of this case, HRS §§ 269-27.5 and 269-27.6(a) do

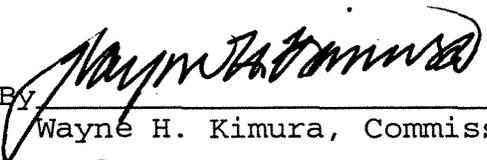
not apply, as long as the facts presented and representations made to the commission in this docket remain true and accurate.

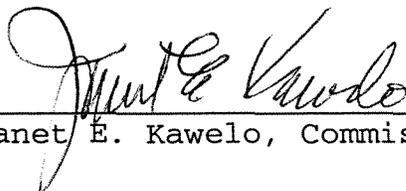
THE COMMISSION ORDERS that this docket is closed.

DONE at Honolulu, Hawaii this 21st day of May, 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:


Michael Azama
Commission Counsel

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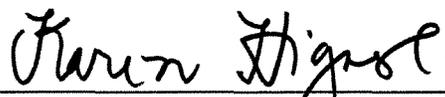
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20997 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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Karen Higashi

DATED: May 21, 2004