

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting Proceedings)
 Relating to the Establishment)
 of a One Call Center to)
 Coordinate the Location of)
 Subsurface Installations and)
 to Provide Advance Notice to)
 Subsurface Installation)
 Operators of Proposed)
 Excavation Work.)
 _____)

DOCKET NO. 04-0195

DECISION AND ORDER NO. 21456

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

2004 NOV 12 A 8:34

RECEIVED

Filed Nov. 9, 2004
At 3 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

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Excavation Work.)
_____)

Docket No. 04-0195
Decision and Order No. **21456**

Decision and Order

I.

Background and Procedural History

The Legislature of the State of Hawaii passed Act 141, 2004 Session Laws of Hawaii ("Act 141") which took effect on July 1, 2004. Among other things, Act 141 calls for the establishment of a one call center ("One Call Center") to coordinate the location of subsurface installations and to provide advance notice to subsurface installation operators of proposed excavation work.

Act 141 also requires the commission to establish a One Call Center advisory committee ("Committee") as a governmental entity, as defined under Hawaii Revised Statutes ("HRS") Chapter 662D, to advise the commission in implementing Act 141. Nine (9) members of the Committee shall be appointed by

the commission as follows:¹ (1) one member from the gas utility industry; (2) one member from the electric utility industry; (3) one member from the telecommunications utility industry; (4) one member from the pipeline operator industry; (5) two members from the General Contractors Association of Hawaii ("GCA"); (6) two members from the Building Industry Association of Hawaii ("BIA"); and (7) one member from the cable service industry.

On July 26, 2004, the commission issued a letter (a copy of which is attached to Order No. 21221, filed on August 6, 2004, as Exhibit A) to the Utilities Damage Task Force ("Task Force"),² which consists of members of the industries noted above. In its July 26, 2004 letter, the commission requested recommendations from the Task Force for suitable representatives

¹Act 141 specifies that these nine (9) members shall be appointed by the commission to serve until successors are appointed by the commission and that six (6) additional members of the Committee will be: (1) the Director of the State Department of Transportation or the Director's representative; (2) the Executive Director of the Division of Consumer Advocacy or the Executive Director's representative; and (3) one member from each of the counties of Maui, Kauai, Hawaii and the city and county of Honolulu, designated by the respective mayors. In addition, Act 141 states that a representative of the One Call Center shall serve as an *ex officio* nonvoting member of the Committee.

²The Task Force, formed after the 2002 Hawaii State Legislative Session, is a joint effort by members of the public utilities, pipeline operators, cable television providers, the BIA, the GCA and the Hawaii Insurers Council to develop initiatives to minimize damage to underground facilities. In particular, during the 2004 Legislative Session, the Task Force advocated for the promulgation of a One Call Center law to coordinate the verification of locations and marking of existing underground facilities.

to fill the above-described nine (9) seats on the Committee, described above, in accordance with Act 141.

On August 4, 2004, the Task Force submitted its letter (a copy of which is attached to Order No. 21410, filed on October 11, 2004, as Exhibit B) in response to the commission's July 26, 2004 letter indicating its list of recommended nominees to fill the nine (9) seats on the Committee.

In light of the above, the commission instituted a proceeding on August 6, 2004 to establish the Committee and appoint the necessary members of the Committee, pursuant to Act 141 and HRS § 269-7.³

On October 11, 2004, the commission, by Order No. 21410, denied VERIZON HAWAII INC.'s ("Verizon Hawaii Inc.") Motion to Intervene, but granted Verizon Hawaii Inc. Participant Status, Without Intervention.⁴ Order No. 21410 also permitted the Consumer Advocate and Verizon Hawaii Inc. to file within ten (10) days from the date of the order written statements of position on, among other things, the recommended nominees to fill the nine (9) seats on the Committee.

On October 21, 2004, Verizon Hawaii Inc. submitted its Statement of Position, pursuant to Order No. 21410.

³Order No. 21221, filed on August 6, 2004.

⁴Verizon Hawaii Inc. filed its Motion to Intervene on August 26, 2004. No other interested persons filed motions to intervene.

II.

Discussion

A.

Establishment of Committee

Act 141 states, in relevant part, as follows:

One call center advisory committee. [(a)]The commission shall establish a one call center advisory committee as a governmental entity as defined under chapter 662D to advise the commission in implementing this chapter. The committee shall be comprised of fifteen voting members and one ex officio nonvoting member. Of the voting members:

- (1) Nine shall be appointed by the commission to serve until successors are appointed by the commission. The appointments shall be as follows:
 - (A) One from the gas utility industry;
 - (B) One from the electric utility industry;
 - (C) One from the telecommunications utility industry;
 - (D) One from the pipeline operator industry;
 - (E) Two from the General Contractors Association of Hawaii;
 - (F) Two from the Building Industry Association of Hawaii; and
 - (G) One from the cable service industry.
- (2) One shall be the representative of the city and county of Honolulu designated by the mayor of the city and county of Honolulu;
- (3) One shall be the representative of the county of Hawaii designated by the mayor of the county of Hawaii;
- (4) One shall be the representative of the county of Maui designated by the mayor of the county of Maui;
- (5) One shall be the representative of the county of Kauai designated by the mayor of the county of Kauai;
- (6) One shall be the director of the state department of transportation, or the director's representative; and

- (7) One shall be the executive director of the division of consumer advocacy, department of commerce and consumer affairs, or the executive director's representative.

A representative of the center shall serve as an ex officio nonvoting member of the committee.

- (b) No member shall receive any compensation for the member's services.
- (c) The committee shall advise the commission on:
 - (1) The establishment of rules;
 - (2) The setting of appropriate fees and assessments for the administration and operation of the center;
 - (3) The selection of the center provider;
 - (4) The enforcement of this chapter; and
 - (5) Other aspects regarding the establishment and operation of the center;provided that the committee shall not advise the commission in the exercise of the commission's quasi-judicial, adjudicatory functions, or participate in the commission's deliberations. The committee shall be exempt from chapter 92.

2004 Haw. Sess. L. Act 141, § 4 at 601.

In addition to the Task Force's recommendations and Verizon Hawaii's Statement of Position, the commission recently received letters from the respective mayors of each of the four (4) counties (attached hereto as Exhibit C) designating each of their respective representatives in accordance with Act 141. The designated representatives for each of the four (4) counties are as follows:

- a. Larry Leopardi, Director of the Department of Public Facilities, representing the City and County of Honolulu;
- b. Galen Kuba, Engineering Division Head, representing the County of Hawaii;

- c. Cary Yamashita, Engineering Division Chief of the Department of Public Works and Environmental Management, representing the County of Maui;⁵ and
- d. Wally Kudo, Acting Engineering Division Chief, representing the County of Kauai.

Having received the designated representatives for each of the four (4) counties, the commission finds and concludes that it is appropriate and in the public interest to formally establish the Committee as a governmental entity as defined under HRS chapter 662D to advise the commission in implementing this chapter. In accordance with Act 141, the Committee will also not be subject to the requirements of HRS chapter 92 (aka, the Sunshine Law).

B.

Appointment of Remaining Members to the Committee

As stated previously, the Task Force submitted its recommended nominees for the remaining nine (9) Committee members with the commission on August 4, 2004. Those nine (9) recommended nominees are as follows: (1) Steven Golden, Director, External Affairs and Planning,⁶ The Gas Company, LLC, representing the gas utility industry; (2) Ken T. Morikami, Director, Project Management, Hawaiian Electric Company, Inc.,

⁵On November 8, 2004, Mr. Yamashita orally confirmed that his official title is Engineering Division Chief of the Department of Public Works and Environmental Management.

⁶On November 8, 2004, Mr. Golden orally confirmed that his official title is Director, External Affairs and Planning.

representing the electric utility industry; (3) Calvin Choy, Senior Engineer, Support Structures, Verizon Hawaii Inc., representing the telecommunications industry; (4) Don Grimes, Operations Manager, the Airport Group, representing the pipeline operators industry; (5) Leonard Leong, Vice President, Royal Contracting Co., Ltd., and Sidney Quintal, Vice President of Marketing, Grace Pacific Corp., representing the GCA; (6) John Cheung, President, CC Engineering and Construction, Inc., and Ron Oshiro, President, Ron's Construction Corp., representing the BIA; and (7) Lance Uno, Director, OSP Engineering/Construction, Oceanic Time Warner Cable, representing the cable service industry.

Order No. 21221 also stated, in relevant part, the following:

The commission will also accept other nominations for Committee members, in addition to any comments relating to these nominations from all interested persons.⁷ All nominations shall be filed with the commission within twenty (20) days from the date of this order. The commission's appointment of the nine (9) members will be based on: (1) the nominee's experience as either an excavator and/or operator; (2) the nominee's knowledge and expertise in operating a one call center; and (3) other factors deemed relevant to the commission.

Order No. 21221 at 4.

⁷As of the date of this order, the commission neither received any other nominations for Committee members nor did it receive any comments relating to the Task Force's recommended nominees in accordance with Order No. 21221.

Upon review of the record including, without limitation, Verizon Hawaii Inc.'s October 21, 2004 Statement of Position, the commission finds that each of the Task Force's recommended nominees have the requisite experience as either an excavator and/or operator and the knowledge and expertise necessary to operate a successful One Call Center.⁸ Moreover, in light of the breadth and scope of industries and groups participating in the Task Force since its inception, the commission is confident that the Task Force's recommended nominees will constitute an adequate representation of the respective industries and groups affected by the One Call Center. Accordingly, we conclude that the Task Force's recommended nominees should be approved and, unless otherwise ordered, should serve as duly appointed voting members of the Committee in accordance with Act 141. Finally, the commission recognizes that as of the date of this order, the remaining two (2) voting members from state agencies should be designated as Rodney Haraga, Director of the State Department of Transportation or his designated representative; and John Cole, Executive Director of the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs or his designated representative.

⁸Pursuant to Hawaii Administrative Rules § 6-61-48, the commission also takes official notice of all commission records relating to state officials and agencies and excavators and/or operators that are public utilities under Hawaii Revised Statutes Chapter 269.

III.

Summary and Next Steps

The Committee is formally established in accordance with Act 141 and shall be comprised of the following fifteen (15) voting members:

- a. **Steven Golden**, Director, External Affairs and Planning, The Gas Company, LLC, representing the gas utility industry;
- b. **Ken T. Morikami**, Director, Project Management, Hawaiian Electric Company, Inc., representing the electric utility industry;
- c. **Calvin Choy**, Senior Engineer, Support Structures, Verizon Hawaii Inc., representing the telecommunications industry;
- d. **Don Grimes**, Operations Manager, the Airport Group, representing the pipeline operators industry;
- e. **Leonard Leong**, Vice President, Royal Contracting Co., Ltd., and **Sidney Quintal**, Vice President of Marketing, Grace Pacific Corp., representing the GCA;
- f. **John Cheung**, President, CC Engineering and Construction, Inc., and **Ron Oshiro**, President, Ron's Construction Corp., representing the BIA;
- g. **Lance Uno**, Director, OSP Engineering/Construction, Oceanic Time Warner Cable representing the cable service industry;

- h. **Larry Leopardi**, Director of the Department of Public Facilities, representing the City and County of Honolulu;
- i. **Galen Kuba**, Engineering Division Head, representing the County of Hawaii;
- j. **Cary Yamashita**, Engineering Division Chief of the Department of Public Works and Environmental Management, representing the County of Maui;
- k. **Wally Kudo**, Acting Engineering Division Chief, representing the County of Kauai
- l. **Rodney Haraga**, Director of the State Department of Transportation or his designated representative; and
- m. **John Cole**, Executive Director of the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs or his designated representative.

To better acquaint the commission as to how the Committee should be governed and to assist the commission in determining the next steps or courses of actions that should be taken to implement the purpose and intent of Act 141, the commission believes that it would be beneficial and appropriate for the Committee to meet and confer (either in person or by teleconference) with the commission and its staff at a date, time and location to be determined administratively by letter. In light of the commission's establishment of the Committee and its appointment of the nine (9) members of the Committee, as discussed above, the commission finds that the proceeding in this

docket can now be terminated, and that this docket should be hereinafter closed.

IV.

Orders

THE COMMISSION ORDERS:

1. The Committee is formally established in accordance with Act 141.

2. The Task Force's recommended nominees submitted to the commission on August 4, 2004 are approved and, unless otherwise ordered, shall serve as duly appointed voting members of the Committee in accordance with Act 141.

3. Unless otherwise ordered, the Committee shall be comprised of the following fifteen (15) voting members:

- a. **Steven Golden**, Director, External Affairs and Planning, The Gas Company, LLC, representing the gas utility industry;
- b. **Ken T. Morikami**, Director, Project Management, Hawaiian Electric Company, Inc., representing the electric utility industry;
- c. **Calvin Choy**, Senior Engineer, Support Structures, Verizon Hawaii Inc. representing the telecommunications industry;
- d. **Don Grimes**, Operations Manager, the Airport Group, representing the pipeline operators industry;

- e. **Leonard Leong**, Vice President, Royal Contracting Co., Ltd., and **Sidney Quintal**, Vice President of Marketing, Grace Pacific Corp., representing the GCA;
- f. **John Cheung**, President, CC Engineering and Construction, Inc., and **Ron Oshiro**, President, Ron's Construction Corp., representing the BIA;
- g. **Lance Uno**, Director, OSP Engineering/Construction, Oceanic Time Warner Cable representing the cable service industry;
- h. **Larry Leopardi**, Director of the Department of Public Facilities, representing the City and County of Honolulu;
- i. **Galen Kuba**, Engineering Division Head, representing the County of Hawaii;
- j. **Cary Yamashita**, Engineering Division Chief of the Department of Public Works and Environmental Management, representing the County of Maui;
- k. **Wally Kudo**, Acting Engineering Division Chief, representing the County of Kauai;
- l. **Rodney Haraga**, Director of the State Department of Transportation or his designated representative; and

m. **John Cole**, Executive Director of the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs or his designated representative.

4. The proceeding in this docket is terminated, and this docket is hereinafter closed.

DONE at Honolulu, Hawaii NOV - 9 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:

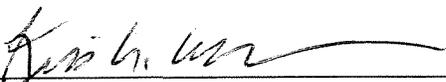
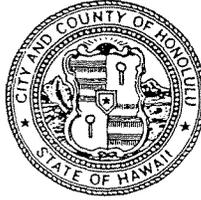

Benedyne S. Stone
Commission Counsel
04-0195.ac

EXHIBIT C

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 • HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4141 • FAX: (808) 527-5552 • INTERNET: www.co.honolulu.hi.us

JEREMY HARRIS
MAYOR



July 30, 2004

PUBLIC UTILITIES
COMMISSION

AUG 2 11 55 AM '04

FILED

Mr. Carlito P. Caliboso
Chairman
Public Utilities Commission
Department of Budget and Finance
State of Hawaii
465 South King Street, #103
Honolulu, Hawaii 96813

Dear Mr. Caliboso:

SUBJECT: One Call Center Advisory Committee

Thank you for your letter of July 26, 2004, concerning the establishment of the One Call Center Advisory Committee, which will advise the Public Utilities Commission regarding the implementation of Act 141.

I have designated Larry Leopardi, Director of the Department of Public Facilities, to be the City and County of Honolulu's designated representative. He can be contacted at 484-7600 or via e-mail at lleopardi@honolulu.gov.

Please do not hesitate to let me know if I can be of further assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy Harris", written over a circular stamp or seal.

JEREMY HARRIS
Mayor

JH:jf (23215)

cc: Larry Leopardi, Director
Department of Facility Maintenance

Harry Kim
Mayor



Dixie Kaetsu
Managing Director

Peter L. Hendricks
Deputy Managing Director

County of Hawai'i

25 Aupuni Street, Room 215 • Hilo, Hawai'i 96720-4252 • (808) 961-8211 • Fax (808) 961-6553
KONA: 75-5706 Kuakini Highway, Suite 103 • Kailua-Kona, Hawai'i 96740
(808) 329-5226 • Fax (808) 326-5663

August 4, 2004

Carlito P. Caliboso, Chairman
Public Utilities Commission
State of Hawai'i
465 South King Street, #103
Honolulu, Hawai'i 96813

PUBLIC UTILITIES
COMMISSION

AUG 6 11 53 AM '04

FILED

Re: One Call Center Advisory Committee

Dear Mr. Caliboso:

Thank you for your recent letter requesting the name of my designated representative who will service as a member of the One Call Center Advisory Committee.

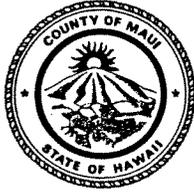
The County's representative on this committee will be Galen Kuba, the head of our Engineering Division. Mr. Kuba can be contacted at (808) 961-8327.

Aloha,

Harry Kim
MAYOR

cc: Bruce McClure, Director of Public Works
Galen Kuba, Engineering Division Head

ALAN M. ARAKAWA
Mayor
GILBERT S. COLOMA-AGARAN
Director
MILTON M. ARAKAWA, A.I.C.P.
Deputy Director



RALPH NAGAMINE, L.S., P.E.
Development Services Administration
TRACY TAKAMINE, P.E.
Wastewater Reclamation Division

Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

Solid Waste Division

Telephone: (808) 270-7745
Fax: (808) 270-7975

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT
ENGINEERING DIVISION

200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

October 18, 2004

Mr. Dan Bilderback
Public Utilities Commission Research Center
465 S. King Street, #103
Honolulu, Hawaii 96813

SUBJECT: ONE CALL CENTER

Dear Mr. Bilderback:

As requested, this letter confirms that Cary Yamashita of our Engineering Division will represent the County of Maui on the One Call Center advisory committee.

If you have any questions regarding this matter, you can call him at (808) 270-7745.

Sincerely,

Gilbert S. Coloma-Agaran
for GILBERT S. COLOMA-AGARAN
Director of Department of Public Works and
Environmental Management

CY:nco(ED04-848)

PUBLIC UTILITIES
COMMISSION

OCT 20 12 11 PM '04

FILED

Bryan J. Baptiste
Mayor



Gary K. Heu
Administrative Assistant

OFFICE OF THE MAYOR

County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 235, Līhu'e, Hawai'i 96766
TEL (808) 241-6300 FAX (808) 241-6877

October 22, 2004

Mr. Daniel Bilderback
Public Utilities Commission
465 South King Street, #103
Honolulu, Hawai'i 96813

PUBLIC UTILITIES
COMMISSION

2004 OCT 25 A 10:39

FILED

Dear Mr. Bilderback:

Thank you for the opportunity to submit a name for the One Call Center Advisory Committee. After conferring with my administration, I am recommending Wally Kudo, Acting Engineering Division Chief, County of Kaua'i, Department of Public Works to represent the county on the advisory committee.

Wally can be contacted at:

Phone: 808 241-6622
Email: wkudo@kauaigov.com
Mail: 4444 Rice Street, Suite 175
Līhu'e, Hawai'i 96766

We appreciate your patience in allowing us ample time to confer and decide on an individual who would best represent the interest of our County and State on matters of excavation activities in the State.

Please call my office if we can be of further assistance, at 241-6300.

Aloha pumehana,

Bryan J. Baptiste
Mayor

BJB/kt

c: Ladye Martin, Deputy County Engineer

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21456 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

JOEL MATSUNAGA
VICE PRESIDENT-EXTERNAL AFFAIRS
VERIZON HAWAII INC.
P.O. Box 2200
Honolulu, HI 96841

LESLIE ALAN UEOKA, ESQ.
ASSISTANT GENERAL COUNSEL
VERIZON HAWAII INC.
P.O. Box 2200
Honolulu, HI 96841



Karen Higashi

DATED: NOV - 9 2004