BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of)) HAWAIIAN ELECTRIC COMPANY, INC.)) For Approval to Construct a) Temporary 46kV Overhead) Subtransmission Line Pursuant to) HRS Section 269-27.5 for Item) P0001063--Palehua East B 46kV) Temporary Overhead Line; and for) Approval of a Waiver of Rule 13 of) HECO's Tariff to Allow HECO to Pay) For a Portion of the Underground) Conversion Cost for Item P0001045--) Palehua East B 46kV Underground,) Phase 1, and Item P0001046--Palehua) East B 46kV Underground, Phase 2.))	DOCKET NO. 04-0360

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

DECISION AND ORDER NO. 21784

Filed April 29, 2005
At 2:00 o'clock P .M.

Karen Higashi
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC. For Approval to Construct a Temporary 46kV Overhead Subtransmission Line Pursuant to HRS Section 269-27.5 for Item P0001063--Palehua East B 46kV Temporary Overhead Line; and for Approval of a Waiver of Rule 13 of HECO's Tariff to Allow HECO to Pay For a Portion of the Underground Conversion Cost for Item P0001045--Palehua East B 46kV Underground, Phase 1, and Item P0001046--Palehua East B 46kV Underground, Phase 2.	Docket No. 04-0360 Decision and Order No. 21784

DECISION AND ORDER

By this Decision and Order, the commission: (1) approves HAWAIIAN ELECTRIC COMPANY, INC.'S ("HECO's") proposal to construct a temporary forty-six (46) kilovolt ("kV") subtransmission line above the surface of the ground and to construct its permanent forty-six (46) kV subtransmission line below the surface of the ground, pursuant to Hawaii Revised Statutes ("HRS") § 269-27.6(a); and (2) grants HECO's request for a waiver of it Tariff Rule thirteen ("Rule 13"),[1] to allow HECO to pay for a portion of the underground conversion costs associated with its proposed project, as described herein.

[1]Rule 13 specifically refers to HECO's Tariff Rule 13.D.4.

I. Background

In sum, the proposed project being advanced in HECO's Application filed on December 14, 2004, Project Y00049--Palehua East B 46kV Relocation project, consists of: (1) Item P0001045--Palehua East B 46kV Underground, Phase 1 ("Phase 1"); (2) Item P0001046--Palehua East B 46kV Underground, Phase 2 ("Phase 2"); and (3) Item P0001063--Palehua East B 46kV Temporary Overhead Relocation ("Temporary Overhead Relocation") (collectively, "Proposed Project"). In its Application, HECO specifically requests that the commission: (1) conduct a public hearing pursuant to HRS § 269-27.5 regarding its proposal to construct a temporary forty-six (46) kV overhead subtransmission line through a residential area, HECO's Temporary Overhead Relocation portion of the Proposed Project; (2) makes a determination under HRS § 269-27.6(a) that HECO's proposed temporary line be constructed above the surface of the ground and that its proposed permanent line be placed underground; and (3) grants it a waiver of Rule 13 to allow HECO to pay for a portion of the underground conversion costs related to the Proposed Project ("Waiver Request").[2]

HECO served the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") with copies of the Application.[3] In its Preliminary Statement of Position filed on January 13, 2005, the Consumer

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[2]By letters filed on January 25, and March 1, 2005, HECO submitted two (2) separate sets of revised cost estimates for the Proposed Project.

[3]No persons moved to intervene in this proceeding.

Advocate stated that it had certain questions and concerns about HECO's requests and; thus, was unable to state its position on the merits of the Application. Concurrently, the Consumer Advocate represented that it would state its position on the merits of HECO's Application upon completion of its investigation.

The Consumer Advocate served HECO with information requests ("IRs") on January 26, 2005. HECO filed responses to the issued IRs on March 1, 2005 ("Response"). By Statement of Position filed on April 5, 2005, the Consumer Advocate informed the commission that it does not object to the approval of the instant Application.

The commission held a public hearing in accordance with HRS § 269-27.5 regarding HECO's Temporary Overhead Construction request on Wednesday, March 2, 2005, at Kapolei High School Cafeteria (91-5007 Kapolei Parkway, Kapolei, Hawaii, 96707) at 6:00 p.m. ("Public Hearing).[4]

II. HECO's Requests and Approval Requirements

A. Description of the Proposed Project

The Proposed Project was initiated at the request of Castle & Cooke Homes Hawaii, Inc. ("CCHHI") to accommodate CCHHI's plans to construct new residential units on its property in Makakilo, on the island of Oahu. The Proposed Project

[4]Aside from HECO and the Consumer Advocate, no other organization or individual provided public testimony during the scheduled Public Hearing. The transcript of the Public Hearing was filed with the commission on March 23, 2005.

involves the permanent relocation and conversion of HECO's existing forty-six (46) kV overhead line on the mauka-side of Pueonani Street to underground ("Permanent Line"). Initially, however, a portion of HECO's existing line will be temporarily relocated overhead at a different location to accommodate the start of CCHHI's construction ("Temporary Line"). HECO represents that: (1) CCHHI will pay for the Temporary Line; and (2) the permanent underground conversion of the line will follow the construction (and eventual removal) of the Temporary Line. The current estimated capital cost (excluding change-over and removal costs and general excise tax payment) for the Proposed Project is $966,994.[5] This amount includes CCHHI's in-kind and cash contributions totaling $438,231, including CCHHI's costs to pay for the temporary overhead relocation of the forty-six (46) kV overhead line (i.e., the Temporary Line).

B. Description of the Work Being Proposed

Work associated with the Temporary Line includes the installation of: (A) three (3) sixty-five (65) foot wooden poles; (B) one (1) fifty-five (55) foot wooden pole; (C) six (6) associated anchors; and (D) approximately one-thousand-one-hundred-fifty (1,150) circuit feet of 336.4 KCM AAC 46kV overhead conductors. This portion of the Proposed Project is expected to begin in April 2005 and be completed by June 2005; and is expected to be in service for approximately eight (8) months, or

[5] See, HECO's letter to the commission dated March 1, 2005, providing the commission with its latest revised capital cost estimate for the Proposed Project.

until Phase 2 of the Proposed Project is completed. The existing facility in the Phase 2 area will be removed upon construction of the Temporary Line.

The Phase 1 work includes the installation of: (A) seven (7) 6'x14' manholes; (B) approximately two-thousand-three-hundred-thirty (2,330) feet of 4-5 inch ducts; (C) approximately one-thousand-six-hundred (1,600) circuit feet of 3-1/c 1500 KCM PEIJ aluminum 46kV cables; (D) two (2) sixty-five (65) foot wooden, three (3) phase 46kV riser poles; and (E) two (2) associated anchors. This section of the Proposed Project is anticipated to start in June 2005 and be completed by September 2005. The Temporary Line in this phase of the project area will be removed upon completion of Phase 1 of the Proposed Project.

The Phase 2 work consists of the installation of: (A) two (2) 6'x14' manholes; (B) approximately one-thousand-two-hundred-fifty (1,250) feet of 4-5 inch ducts; and (C) approximately two-thousand-two-hundred (2,200) circuit feet of 3-1/c 1500 KCM PEIJ aluminum 46kV cables. This phase of the project is expected to start in December 2005 and be completed by February 2006. The Temporary Line in this phase of the project area will be removed upon completion of Phase 2 of the Proposed Project.

C. Approval Under HRS § 269-27.6(a) Required

HRS § 269-27.6(a) (construction of high-voltage electric transmission lines; overhead or underground construction) states the following:

> 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:
>
> (1) Whether a benefit exists that outweighs the costs of placing the electric transmission 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 division of consumer advocacy of the department of commerce and consumer affairs, which shall be based on an evaluation of the factors set forth under this subsection; and
>
> (5) Any other relevant factors.

HECO represents that its Proposed Project satisfies the requirements of HRS § 269-27.6(a). HECO contends that its Temporary Overhead Construction portion of the Proposed Project is only a temporary measure to facilitate the construction of the residential units during Phase 1 of the Proposed Project.

HECO states that the Temporary Line will eventually be installed underground upon the construction of the underground infrastructure of the Permanent Line during Phase 2 of the Proposed Project. HECO also contends that the visual impact of the overhead placement of the Temporary Line will not be "significantly increased" due to the existence of a forty-six (46) kV overhead circuit already in the project area. Moreover, HECO states the portion of the forty-six (46) kV line being relocated will be moved approximately only two-hundred-fifty (250) feet latterly from its existing location.

HECO also represents that there is no governmental public policy requiring the undergrounding of the line, to the best of its knowledge; and that it did not solicit the State Department of Transportation nor the City and County of Honolulu to inquire if they were willing to pay for the additional costs associated with undergrounding the Temporary Line since plans for the permanent undergrounding of the forty-six (46) kV line was already part of the Proposed Project. Furthermore, HECO states that it is unaware of any other relevant factors associated with its Proposed Project.

D. Waiver Request

Under HECO's tariff Sheet No. 1, HECO needs to obtain prior commission approval before departing from its own rules. HECO's tariff Sheet No. 1 states the following:

> The rules and rate schedules set forth herein have been fixed by order of the Public Utilities Commission of the State of Hawaii and may not be

> abandoned, changed, modified or departed from without the prior approval of the [c]ommission.

HECO is seeking commission approval to deviate from Rule 13.D.4 (Replacement of Overhead with Underground Facilities), which provides the following:

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

HECO states that it executed an agreement letter with CCHHI to convert the existing forty-six (46) kV overhead line (contingent and binding upon obtaining all required regulatory approvals) and a separate agreement for the Temporary Line, which CCHHI will pay for. The cost sharing for the conversion of the existing forty-six (46) kV line (i.e., the Permanent Line) was negotiated between HECO and CCHHI. HECO notes that CCHHI did not want to pursue installing a permanent forty-six (46) kV overhead line through its development.

Under their agreement, CCHHI will be responsible for all activities associated with the construction and installation of all civil/structural ground work (or the infrastructure) for the proposed conversion (including planning, designing, and procuring materials); while HECO will be responsible for the construction and installation of all electrical facilities required for the underground service (including planning, designing, and procuring materials) ("Cost Sharing Proposal"). Upon completion of the Proposed Project, HECO represents that

CCHHI will transfer ownership of the underground infrastructure to HECO.

HECO states that a project specific waiver of Rule 13 is required for it to pay for a portion of the costs associated with converting its existing forty-six (46) kV overhead line to underground, pursuant to Decision and Order No. 20473, filed on October 1, 2003, in Docket No. 03-0036.[6] HECO states that it agreed to share in the cost of converting the existing line with CCHHI based on its belief that this decision "is a reasonable and economical solution to acquiring long-term easement rights for this portion of the existing forty-six (46)kV overhead line."[7]

Two separate easements cover the portion of the existing overhead forty-six (46) kV line within CCHHI's property. The first easement (R/W 68-07), is applicable to approximately two-hundred-sixty (260) circuit feet of the affected segment of the line. This easement is a perpetual easement with a one (1)-time relocation clause at HECO's expense. The second easement (R/W 1007-303), is applicable to approximately two-thousand-six-hundred-forty (2,640) circuit feet of the affected portion of the line. The second easement is not perpetual and terminates with the expiration of the Campbell Estate trust in 2007. Moreover, the second easement does not have a have a relocation clause at HECO's expense.

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[6]This docket concerned the underground conversion of HECO's facilities on Kailua Road.

[7]See, Application at 9.

Upon initially receiving CCHHI's request to underground the existing forty-six (46) kV line, HECO provided CCHHI with a preliminary cost estimate for the underground conversion and offered a credit to CCHHI for an equivalent overhead line per Rule 13. CCHHI rejected HECO's proposal and requested that HECO contribute a larger share for the costs of undergrounding the line. Moreover, CCHHI indicated that if HECO was unwilling to increase its contribution, CCHHI will wait until the second easement expires in 2007 and require HECO to remove the forty-six (46) kV line.

HECO analyzed two (2) alternatives before accepting CCHHI's Cost Sharing Proposal. The first alternative was to relocate the overhead line around CCHHI's development while the second alternative was to condemn the easement for the forty-six (46) kV line. HECO estimated that both alternatives were more expensive than the Cost Sharing Proposal. Additionally, under the Cost Sharing Proposal, CCHHI will provide HECO with a substitute perpetual easement with no relocation clause at HECO's expense for the relocation alignment and the remaining portions of the line on CCHHI's property (which includes approximately seven-hundred (700) lineal feet outside of the project area). Due to these considerations, HECO agreed to adopt CCHHI's Cost Sharing Proposal for the underground conversion of HECO's existing forty-six (46) kV line, as described above.

III. Consumer Advocate's Position

The Consumer Advocate states that the Temporary Line should be placed overhead and that the Permanent Line should be placed underground, based on its conclusion that HECO's proposed placement of the lines is reasonable under HRS § 269-27.6(a).[8] Moreover, the Consumer Advocate states that it does not object to the waiver of Rule 13 to allow HECO to pay for a portion of the conversion of the Permanent Line to underground since HECO will receive a permanent easement for the instant project.

The Consumer Advocate based its position on the following determinations, as summarized. First, the overhead construction of the Temporary Line will not adversely affect residents in the area and there are no benefits that outweigh the costs of placing the Temporary Line underground. Second, the conversion of the existing forty-six (46) kV line from overhead to underground is reasonable since CCHHI will be making a reasonable contribution towards the cost of converting the line. Finally, wavier of Rule 13 regarding the matters of this docket allows HECO to obtain a perpetual easement for the relocated 46kV line.

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[8]The Consumer Advocate's HRS § 269-27.6(a) review is set forth in its Statement of Position on pages 4-7. Among other things, the Consumer Advocate asserts that it does not object to the overhead placement of the Temporary Line and the underground placement of the Permanent Line. See, Statement of Position at 7.

IV. Findings and Conclusions

Upon review, the commission determines that HECO's proposal to place its Temporary Line overhead and to place its Permanent Line underground, in the manner set forth in its Application, is appropriate, pursuant to HRS § 269-27.6(a). First, in our review of HECO's proposal under HRS § 269-27.6(a) we find that the visual impacts of placing the Temporary Line overhead are not outweighed by the costs of placing the line underground[9] since the line is only expected to be in place for approximately eight (8) months and overhead lines already exist in the area. With regards to the placement of the Permanent Line underground, in the manner proposed, we find it reasonable since: (1) CCHHI is providing funds and in-kind contributions to partially offset the costs of installing the line underground; and (2) HECO will be receiving a permanent easement for its line through CCHHI's project area. These benefits sufficiently appear to outweigh the costs of placing the transmission line underground.

Second, as HECO and the Consumer Advocate indicate, there does not appear to be a governmental policy requiring the underground placement of the Temporary Line.[10] Third, since CCHHI is contributing to the underground placement of the Permanent Line, it does not appear that CCHHI would be willing to also pay for the underground placement of the Temporary Line, a line that

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[9]Overhead construction of the Temporary Line is estimated to be approximately $72,200 while placing the line underground is expected to cost over $520,800. See, Response to CA-IR-5.

[10]See, Application at 7 and Statement of Position at 6.

will be removed upon completion of the construction in the project area. Moreover, it does not appear that any governmental agency or any other party is willing to pay for the additional costs of placing the lines underground.

Fourth, the Consumer Advocate states that it "does not object to the placement of the Temporary Line overhead, or the placement of the Permanent Line below the surface of the ground."[11] Finally, we are unaware of any other relevant factors, at this time, that may affect HECO's proposal to place the Temporary Line overhead and its decision to place the Permanent Line underground, as set forth in the Application. For the record, our determinations, set forth above, are based on various HECO representations set forth in the docket including, but not limited to, those made in the Application and the Response.

Moreover, under the special circumstances related to the underground conversion of the Permanent Line, we find that a waiver of Rule 13.D.4, allowing HECO to deviate from its own tariff rule, in this particular instance, is reasonable. CCHHI refuses to pay for the "full" cost of converting the line to underground, pursuant to HECO's Rule 13.D.4; and indicated that it would require HECO to remove its existing forty-six (46) kV line upon the expiration of its easement with Campbell Estate in 2007.[12] The estimated cost of HECO's alternatives in light of CCHHI's intentions are more expensive than HECO's decision to

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[11]See, Statement of Position at 7.

[12]See, Application at 10.

contribute more towards the conversion of the line,[13] which is advanced in the Application. Through this process, HECO will also receive from CCHHI a substitute perpetual easement for the relocated alignment and remaining portions of the line within CCHHI's property.

Based on the above, the commission concludes that the overhead construction of the Temporary Line and the underground conversion of the Permanent Line, in the manner set forth in the Application should be approved. Accordingly, we also conclude that HECO's request for a waiver of Rule 13.D.4 should be granted, in this instance, to allow HECO to contribute towards the costs of undergrounding the Permanent Line.

V. Orders

THE COMMISSION ORDERS:

1. The overhead construction of the Temporary Line and the underground conversion of the Permanent Line, in the manner set forth in the Application, is approved, pursuant to HRS § 269-27.6(a).

2. HECO's request for a waiver of its tariff Rule 13.D.4 to allow HECO to pay for a portion of the underground

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[13]The alternatives HECO considered are: (1) relocating the forty-six (46) kV overhead line around CCHHI's development ("Alternative 1"), and (2) condemning the easement for the forty-six (46) kV line ("Alternative 2"). The cost estimate for Alternative 1 is $799,986 while the cost estimate for Alternative 2 is $3,750,000. See, Application Exhibit X. HECO's contribution for the Proposed Project is estimated to be approximately $528,763 (i.e., estimated cost of the Proposed Project minus CCHHI's contribution--$966,994-$438,231). See, HECO's March 1, 2005 letter submitting its latest revised cost estimate for the Proposed Project.

conversion costs of Items P0001045 and P0001046--Palehua East 46kV Underground, Phase 1 and Phase 2, respectively, is granted.

DONE at Honolulu, Hawaii APR 29 2005.

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:

_____
Ji Sook Kim
Commission Counsel

04-0360.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21784 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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DATED: APR 29 2005