

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
 MAUI ELECTRIC COMPANY, LIMITED)
)
 For Expedited Approval to Sell)
 Utility Materials to the Royal)
 Lahaina Resort.)
 _____)

DOCKET NO. 05-0200

INTERIM ORDER NO. 21991

Filed August 12, 2005
At 11:20 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

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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)	
MAUI ELECTRIC COMPANY, LIMITED)	Docket No. 05-0200
For Expedited Approval to Sell)	Interim Order No. 21991
Utility Materials to the Royal)	
Lahaina Resort.)	
_____)	

INTERIM ORDER

By this Interim Order, the commission approves MAUI ELECTRIC COMPANY, LIMITED's ("MECO") August 11, 2005 expedited request for interim approval ("Expedited Request for Interim Approval") to immediately sell its 300 kilovolt ampere padmount transformer and 15 kilovolt cable ("Utility Materials") to the Royal Lahaina Resort ("RLR"), subject to certain conditions, described below.

I.

Expedited Request for Interim Approval

MECO seeks expedited interim approval to sell its Utility Materials to RLR and install such materials to enable the resort to restore commercial power to its kitchen, shops and guest cottages.¹ In support of its Expedited Request for Interim Approval, MECO represents:

¹See MECO's letter, dated and filed on August 11, 2005 ("MECO Letter")

1. At approximately 2:40 p.m. on August 5, 2005, RLR's transformer and cable serving the kitchen, shops and guest cottages incurred an unplanned outage. Pending the restoration of commercial power, RLR's kitchen, shops and guest cottages are presently being powered by rented portable diesel generators.²

2. After the unplanned outage, RLR inspected the transformer in the afternoon of August 5, 2005, and determined that its transformer was leaking and could not be repaired. "RLR does not carry a spare transformer or have access to one and is not able to obtain one from a local supplier." Furthermore, "[i]t would take approximately ten to twelve weeks to procure one from a manufacturer on the mainland." As such, RLR requested that MECO sell the Utility Materials and provide the labor necessary to install the Utility Materials in order to enable RLR to restore commercial power to its kitchen, shops and guest cottages.³

3. MECO has the requested Utility Materials available in its inventory, and has sufficient inventory of the requested Utility Materials to provide reliable service on its own system.⁴

4. "Given the emergency situation and the need for the resort to have reliable power, the sale of these [Utility Materials] . . . would be in the public interest."⁵

²MECO Letter at 1.

³*Id.*

⁴*Id.*

⁵*Id.*

5. MECO will submit a formal application if it is required. It makes this request "via a letter due to the expedited nature of this request."⁶

6. "If the [c]ommission approves the sale of the [Utility Materials] to the RLR, MECO will account for this transaction as a normal retirement of utility plant. Accordingly, the following proposed accounting entries reflect the Company's standard practice for recording such retirements: (1) Utility Plant in Service will be credited for the cost of the transformer with a corresponding debit to Accumulated Depreciation; and (2) a receivable will be recorded for the net book value of the transformer, with a corresponding credit to Accumulated Depreciation - Salvage Value. No gain or loss will be recognized on the sale of the transformer and cable."

MECO submitted a copy of its Expedited Request for Interim Approval to the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), and represents that the Consumer Advocate verbally informed MECO that it does not object to MECO's Expedited Request for Interim Approval.

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

⁶Id.

disposing of its property that is necessary and useful in the performance of its duties to the public, without first obtaining an order from the commission authorizing the public utility so to do. 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.

Paragraph thirteen (13) of the "Conditions For the Merger and Corporate Restructuring of Hawaiian Electric Company Inc.," which is attached as Exhibit A to Order No. 7256, filed on September 29, 1982, in Docket No. 4337 ("Order No. 7256"), requires prior commission approval of transfers of property that is or was in MECO's rate base. Paragraph thirteen (13) of Order No. 7256 states:

13. The Utility Corporation shall not transfer any of its property which is or was in the rate base nor assume any liabilities of Industries, directly or indirectly, without the prior approval of the [c]ommission. The determination of the transfer value and the accounting and ratemaking treatment thereof shall be determined by the [c]ommission at the time of approval of such transfer."

In light of MECO's representations, noted above, we find that the sale of the Utility Materials is necessary to immediately provide RLR with reliable electrical service.

Given the context of this emergency situation described by MECO, we find MECO's Expedited Request for Interim Approval reasonable and in the public interest. Thus, we conclude that MECO's Expedited Request for Interim Approval should be approved, provided that MECO submits 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.⁷ Such approval is further conditioned upon MECO's compliance with the applicable laws, rules and regulations relating to the above-referenced transaction and any terms, conditions, and requirements imposed subsequent to the commission's and the Consumer Advocate's respective reviews of the merits of the formal application filed in this docket.⁸

III.

Order

THE COMMISSION ORDERS that MECO's August 11, 2005 Expedited Request for Interim Approval is approved, subject to the following conditions:

⁷The commission will defer its ruling on MECO's proposed accounting treatment, described herein, until it complies with the requirement set forth in Decision and Order No. 21916, filed on June 12, 2005, in Docket No. 05-0049.

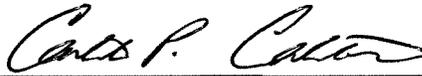
⁸In light of a recent influx of expedited or emergency requests filed by Hawaiian Electric Company, Inc. and MECO (e.g., Docket No. 05-0049), the commission advises MECO that it intends to fully examine and review the merits of MECO's formal application in this proceeding including, without limitation, the underlying reasons for these types of requests and its business relations and practice with its customers.

1. MECO shall submit a formal application in accordance with the applicable laws, rules and procedures relating to the above-referenced transactions within twenty (20) days from the date of this Interim Order;

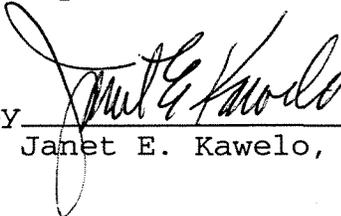
2. The commission and the Consumer Advocate reserve their respective rights to review the merits of the above-referenced transaction relating to the Proposed Transfer of Materials subsequent to the submission of MECO's formal application in accordance with the applicable laws, rules and regulations.

DONE at Honolulu, Hawaii, August 12, 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (Excused)
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kris N. Nakagawa
Commission Counsel

CERTIFICATE OF SERVICE

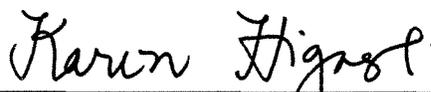
I hereby certify that I have this date served a copy of the foregoing Interim Order No. 21991 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
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Karen Higashi

DATED: August 12, 2005