

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
)  
HAWAII ELECTRIC LIGHT COMPANY, INC. )  
)  
For Approval to Construct an Overhead )  
69 kV Transmission Line Pursuant to )  
HRS § 269-27.6(a) for Item H00000725, )  
Queen Kaahumanu Highway Widening, )  
Phase I, Henry Street to Kealakehe )  
Parkway )  
\_\_\_\_\_ )

DOCKET NO. 2006-0016

DECISION AND ORDER NO. 23020

Filed Nov. 6, 2006  
At 2 o'clock P. 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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Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi

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In the Matter of the Application of )  
HAWAII ELECTRIC LIGHT COMPANY, INC. ) Docket No. 2006-0016  
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Queen Kaahumanu Highway Widening, )  
Phase I, Henry Street to Kealakehe )  
Parkway )

DECISION AND ORDER

By this Decision and Order, the commission approves HAWAII ELECTRIC LIGHT COMPANY, INC.'s ("HELCO") request for approval to construct an overhead 69 kilovolt ("kV") transmission line pursuant to Hawaii Revised Statutes ("HRS") § 269-27.6(a), in connection with the Queen Kaahumanu Highway Widening Project, Phase I, in the Kailua, Kona area on the island of Hawaii ("Proposed Project").

I.

Background

A.

Application

On January 24, 2006, HELCO filed an Application for commission approval to relocate 7500 and 9300 69 kV transmission lines, as well as install approximately forty feet of new 12 kV underground duct lines and cable, in connection with the

Proposed Project.<sup>1</sup> The Application further requests that the commission grant a project-specific waiver from Rule 13 of HELCO's tariff to allow HELCO to pay approximately \$46,000, or fifty percent, of the 12 kV underground relocation and conversion costs, if such a waiver is deemed necessary by the commission.<sup>2</sup>

1.

HELCO's Proposed Project

In its Application, HELCO states that the Queen Kaahumanu Highway Widening, Phase I project is being performed by the State of Hawaii, Department of Transportation ("DOT") to mitigate heavy traffic congestion leading into the Kailua, Kona resort area on the island of Hawaii. The first phase of the project is intended to increase the number of traffic lanes on Queen Kaahumanu Highway, between Henry Street and Kealakehe Parkway (a distance of 2.6 miles), from two to four lanes. As a part of this widening project, DOT has asked HELCO to relocate its existing overhead 7500 and 9300 69 kV transmission lines that are located on a section of

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<sup>1</sup>Application, Exhibits 1 - 14, and Certificate of Service, filed on January 24, 2006 ("Application"). HELCO served a copy of the Application on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this docket pursuant to HRS § 269-51 and Hawaii Administrative Rules § 6-61-62. HELCO and the Consumer Advocate will be referred to herein as "the Parties."

<sup>2</sup>Application, at 1.

Queen Kaahumanu Highway that is approximately one mile long, from Makala Boulevard to Palani Road, to an alignment approved by DOT.<sup>3</sup>

More specifically, the Proposed Project will involve the installation of a total of eighteen eighty-foot steel poles<sup>4</sup> and one eighty-five-foot steel pole to relocate HELCO's existing 69 kV lines with a 12 kV line and communications underbuild.<sup>5</sup> In addition, HELCO proposes to install approximately forty feet of new 12 kV underground duct lines and cable to connect the relocated 12 kV circuit to the existing 12 kV underground system at Makala Boulevard and at Palani Road. One 5-way 12 kV vacuum switch will also be relocated from the intersection at Queen Kaahumanu Highway and an access road that leads to a sewage treatment plant, to a location along the sewage treatment plant access road.<sup>6</sup> HELCO is coordinating the relocation work with Hawaiian Telcom, Inc. ("Hawaiian Telcom"), whose communication lines in the project area will eventually be placed on new HELCO poles.

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<sup>3</sup>See Exhibit 1 (Map of the Proposed Project's Location) and Exhibit 2 (Site Plan for the Proposed Project), attached to the Application.

<sup>4</sup>As discussed further herein, since the filing of the Application, HELCO has elected to use concrete poles, rather than steel poles, for the Proposed Project in order to improve delivery time of materials, and advance the Proposed Project's completion date. See Letter dated and filed August 30, 2006, from Warren H.W. Lee, to the commission.

<sup>5</sup>Application, at 4-5.

<sup>6</sup>A more detailed description of the work related to the Proposed Project is included in the Application at pages 3 through 7.

In the Application, the total cost for the Proposed Project is estimated at \$1,412,988 (including change-over, salvage, and removal costs, but excluding customer contributions). On August 30, 2006, HELCO informed the commission that it had elected to use concrete poles instead of steel poles to improve delivery time of materials, and advance the completion date of the Proposed Project.<sup>7</sup> As a result, HELCO explained that the total cost for the Proposed Project is estimated to increase by \$50,000. HELCO stated that DOT will share approximately half of the increased cost, so HELCO's cost estimate will increase by approximately \$25,000, for a total estimated project cost of \$1,438,000.<sup>8</sup>

As to the allocation of costs, HELCO represents that HELCO will solely bear the costs of relocating the pole line along one section of the highway (from Makala Boulevard to Kaiwi Street), pursuant to a Use and Occupancy Agreement dated February 28, 1996 between HELCO and DOT ("UOA").<sup>9</sup>

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<sup>7</sup>See Letter dated and filed August 30, 2006, from Warren H.W. Lee, to the commission.

<sup>8</sup>See id.

<sup>9</sup>The UOA was a part of Docket No. 94-0043, involving the construction of the existing pole line in the Keahole-Kailua 69 kV Line No. 3 project, which the commission approved on August 29, 1994, in Decision and Order No. 13517. Prior to the execution of the UOA, HELCO states that it was aware of the possible highway widening project, and secured easements from adjoining property owners with the expectation that its transmission poles and conductors would be within the future highway widening right-of-way, but far enough away from any road improvements. However, since DOT did not have firm design plans on the extent of the infrastructure improvements and did not want to pay relocation costs if the improvements encroached into the easement area, DOT required HELCO to sign the UOA before

For the remaining section of the pole line (from Kaiwi Street to Palani Road), relocation costs will be shared equally between HELCO and DOT, pursuant to HRS § 264-33.<sup>10</sup> Likewise, costs related to the installation of the 12 kV underground duct lines and cable will be shared equally with DOT, pursuant to HRS § 264-33. In this regard, as discussed further below, HELCO requests a waiver of Rule 13 in its tariff, if such a waiver is deemed necessary by the commission.

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approving construction plans for work within the state highway right-of-way for the Keahole-Kailua 69 kV Line No. 3 project.

<sup>10</sup>Under HRS § 264-33 (Relocation of Utility Facilities), capital improvement costs are shared fifty/fifty (50/50) between HELCO and DOT, after first deducting \$10,000 to account for depreciation, salvage, and betterment costs. HRS § 264-33 specifically provides, in relevant part:

(a) Whenever, as the result of the work of construction, reconstruction, or maintenance of any state highway or state or county federal-aid highway, it is necessary to provide for or require the removal, relocation, replacement, or reconstruction of any utility facility, and the expense of removal, relocation, replacement, or reconstruction exceeds \$10,000, one-half of this excess expense shall be a proper charge against the state or county funds available for the construction or maintenance of state or county highways; provided that all of the expense of removal, relocation, replacement, or reconstruction of publicly owned utility facilities shall be a charge against the state or county funds.

HRS § 264-33(a).

Public Hearing

In its Application, HELCO stated that a public hearing is not required under HRS § 269-27.5 because "there are no existing residential homes along the section of transmission lines that are proposed to be relocated, the nearest existing homes are approximately one-third mile away, and the zoning designations in the project area are not explicitly designated as residential . . . . Further, . . . the existing transmission facilities are above ground, and HELCO will relocate these facilities not more than 120 feet from their current locations."<sup>11</sup> The Consumer Advocate agreed that a public hearing was not necessary under HRS § 269-27.5.<sup>12</sup> Based on the foregoing, the commission did not schedule a public hearing for the Application.

## B.

Interim Relief

On June 13, 2006, HELCO filed a Request for Interim Approval, which sought interim approval for HELCO to commit funds to order materials for the Proposed Project and, if necessary, to commence construction prior to receiving commission approval of the Proposed Project under HRS § 269-27.6(a). In support of this request, HELCO represented, among other things, that it was recently informed that there would be an

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<sup>11</sup>Application, at 13-14.

<sup>12</sup>Division of Consumer Advocacy's Preliminary Statement of Position, filed February 10, 2006, at 2 n.1.

increased lead time to order steel poles from its steel pole manufacturer. Accordingly, HELCO stated that interim approval for the Proposed Project was necessary so that it could order materials for the Proposed Project and not unduly delay DOT's time schedule for the Proposed Project.

On June 20, 2006, the commission filed Interim Order No. 22541, which granted HELCO's Request for Interim Approval.

C.

Consumer Advocate's Statement of Position

On July 3, 2006, the Consumer Advocate filed its Statement of Position, informing the commission that it does not object to the approval of the Application.<sup>13</sup> Based upon its review of the Application, the Consumer Advocate concluded that HELCO's proposal to construct the overhead and underground lines in the project area satisfies the requirements of HRS § 269-27.6(a). Furthermore, the Consumer Advocate stated its belief that HELCO's Rule 13 is not applicable to the Proposed Project, and that a waiver of Rule 13 is not necessary in this docket.

Although beyond the scope of the Application, the Consumer Advocate noted that DOT's contribution, based on the cost-sharing formula under HRS § 264-33, appears to be reasonable. The Consumer Advocate was unable to state whether Hawaiian Telcom's contribution to the Proposed Project is

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<sup>13</sup>Division of Consumer Advocacy's Statement of Position, filed July 3, 2006 ("Statement of Position").

reasonable, because the amount of cost-sharing by Hawaiian Telcom will be dependent upon the final design of the poles. The Consumer Advocate, however, recognized that this issue, as well as the reasonableness of the final costs for the Proposed Project, may be addressed in HELCO's next rate proceeding following the completion of the Proposed Project.

By letter dated and filed July 11, 2006, HELCO informed the commission that it would not be submitting a Statement of Position, and that the Parties were in agreement that the proceeding was ready for decision-making.

## II.

### Discussion

#### A.

#### HRS § 269-27.6(a)

HRS § 269-27.6(a), titled "Construction of high-voltage electric transmission lines; overhead or underground construction," states:

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.

HRS § 269-27.6(a).

First, under HRS § 269-27.6(a)(1), the commission finds that no benefit exists that outweighs the costs associated with constructing the lines underground. HELCO estimates that it would cost approximately three times more -- i.e., \$5.1 million versus \$1.9 million -- to relocate the 69 kV and 12 kV lines entirely underground rather than overhead, as proposed by HELCO.<sup>14</sup> Moreover, it appears that the net visual impact of the relocated facilities will be minimal since: there are already existing 69 kV overhead lines in the area; the proposed relocation is to an alignment that is only 120 feet at most from the existing placement;<sup>15</sup> and HELCO represents that it will paint the new poles to minimize any visual impact, based on the recommendations of a

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<sup>14</sup>See Exhibit 12 (Estimate to Provide Underground Electrical Transmission and Distribution Systems), attached to the Application.

<sup>15</sup>Application, at 11.

color consultant.<sup>16</sup> In addition, HELCO asserts that there were no written comments submitted by the public at informational meetings conducted by DOT to indicate that there is a significant public concern about the Proposed Project creating a visual impact in the area.<sup>17</sup> HELCO further asserts that it has not received any other comments from outside parties pertaining to the Proposed Project.<sup>18</sup> For all of these reasons, there does not appear to be a benefit that outweighs the additional costs of placing the 69 kV lines of the Proposed Project underground.

Second, under HRS § 269-27.6(a)(2), the commission is not aware of any governmental policies requiring the underground placement of the lines. As noted by the Consumer Advocate, there have been State legislative efforts to study the feasibility of requiring underground placement of utility facilities, but none of the recommendations have resulted in a legislative mandate to underground electric transmission lines.

Third, under HRS § 269-27.6(a)(3), the commission is not aware of any governmental agency or any other party willing to pay for the additional costs of placing the lines underground.

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<sup>16</sup>Id. at 7.

<sup>17</sup>HELCO states that DOT conducted public informational meetings for the Queen Kaahumanu Highway Widening Project, Phase 1 on October 19, 2005 and November 22, 2005 in Kailua, Kona. During these meetings, project documents and artist renderings, which included the location of the relocated steel poles, were made available. Application, at 11-12. At one of the meetings, HELCO is aware of one individual who mentioned that he would like to see the transmission lines placed underground, but he declined to submit a written comment. See HELCO's response to CA-IR-8a.

<sup>18</sup>See HELCO's response to CA-IR-8c.

HELCO inquired as to whether DOT would be interested in paying the additional cost of undergrounding the 69 kV lines. By letter dated October 27, 2005, DOT responded, stating that it could not commit additional funds to underground the relocated 69 kV lines.<sup>19</sup> Moreover, as noted by the Consumer Advocate, although there is a proposed development adjacent to the project area, the developer of that project, the Queen Liliuokalani Trust, does not appear interested in paying the additional costs of placing the facilities underground.<sup>20</sup>

Fourth, under HRS § 269-27.6(a)(4), the commission recognizes that the Consumer Advocate, after reviewing the Proposed Project under HRS § 269-27.6(a), stated, "the Consumer Advocate does not object to the relocation of the 69 kV Lines to the proposed overhead facilities."<sup>21</sup>

Fifth, under HRS § 269-27.6(a)(5), HELCO estimates that the cost of undergrounding its facilities would result in approximately 2.6 times the rate impact to its residential customers than would be caused by allowing the facilities to be placed overhead. Assuming an average residential consumption of 600 kilowatt-hours per month, this difference amounts to an additional 27.6 cents per month to customers' rates. As noted by the Consumer Advocate, the commission finds that, although this amount may be nominal for most customers, there does not appear

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<sup>19</sup>See Exhibit 11, attached to the Application.

<sup>20</sup>Statement of Position, at 10-11; HELCO's response to CA-IR-8d.2.

<sup>21</sup>Statement of Position, at 11.

to be a benefit to undergrounding only a one-mile section of facilities that has a total length of six to seven miles.

Based on the foregoing, the commission concludes that the construction of the 69 kV and 12 kV lines in association with the Proposed Project, in the manner set forth in the Application, should be approved.

B.

Waiver of Rule 13 of HELCO's Tariff

As mentioned above, pursuant to HRS § 264-33, HELCO intends to equally share costs with DOT in connection with the installation of new 12 kV underground duct lines and cable at Makala Boulevard and at Palani Road. Exhibit 14, attached to the Application, indicates that the cost of this work is estimated at \$91,800. Thus, HELCO's share will be approximately \$46,000 (or approximately fifty percent).

As a result, HELCO has requested a waiver of Rule No. 13.D.4 of its Tariff, which states:

When mutually agreed upon by the customer or applicant and the Company, 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 value of the overhead facilities removed. [Emphasis added.]

More specifically, HELCO explains that, based on Decision and Order No. 20473, filed on October 1, 2003, in Docket No. 03-0036 (Kailua Road Underground Conversion), HELCO understands that a project-specific waiver of Rule 13 may be

required for HELCO to pay fifty percent of the 12 kV underground relocation and conversion cost (which includes the underground infrastructure and electrical cable installation). HELCO, however, states that it is unclear whether a Rule 13 waiver is required for the Proposed Project, since HELCO is cost-sharing the 12 kV underground relocation and conversion cost with DOT pursuant to HRS § 264-33. HELCO nevertheless requests a waiver of Rule 13, if such a waiver is deemed necessary by the commission.

In its Statement of Position, the Consumer Advocate notes that Rule No. 13.D of HELCO's tariff specifically addresses customers who request the replacement of overhead facilities to underground facilities; however, HELCO's rules do not include a specific section that addresses a request by a customer to relocate HELCO's existing facilities, as in this docket. Accordingly, the Consumer Advocate concludes: "it does not appear that Rule No. 13.D directly applies in the instant project. Thus, the Consumer Advocate does not believe that a waiver of Rule No. 13.D is necessary since it is not applicable to the instant project."<sup>22</sup>

The commission agrees with the Consumer Advocate's analysis, and finds that Rule No. 13.D.4 of HELCO's tariff does not apply to the Proposed Project, since DOT is requesting HELCO to relocate its existing facilities, and not replace them with underground facilities. The commission further recognizes that costs for the 12 kV relocation work are being shared between

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<sup>22</sup>Statement of Position, at 13.

HELCO and DOT according to HRS § 264-33. Accordingly, the commission determines that a waiver of Rule No. 13.D.4 is not required in this proceeding.

III.

Orders

THE COMMISSION ORDERS:

1. HELCO's request to construct and install the subject 69 kV transmission lines above the surface of the ground, as part of the Proposed Project, is approved, pursuant to HRS § 269-27.6(a).

2. Rule No. 13.D.4 of HELCO's tariff is not applicable to the Proposed Project. Therefore, HELCO need not obtain a waiver of Rule No. 13.D.4 in this proceeding.

3. This docket is closed, unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii NOV - 6 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

APPROVED AS TO FORM:

  
Kaiulani Kidani Shinsato  
Commission Counsel  
2006-0016.ah

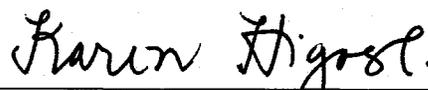
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23020 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: NOV - 6 2006