

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 46 kV)
Underground Subtransmission Line)
Pursuant to HRS Section 269-27.6(a))
For Item P0001306, Mililani Mauka)
Phase 16 Offsite Improvements.)

DOCKET NO. 2006-0145

DECISION AND ORDER NO. 23047

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DEPT. OF COMMERCE AND
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STATE OF HAWAII

Filed November 21, 2006
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Borlee K. Kane
for Chief Clerk of the Commission

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

Borlee K. Kane

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Docket No. 2006-0145
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DECISION AND ORDER

By this Decision and Order, the commission grants HAWAIIAN ELECTRIC COMPANY, INC.'s ("HECO") request for approval to construct a 46 kilovolt ("kV") underground subtransmission line pursuant to Hawaii Revised Statutes ("HRS") § 269 27.6(a), in connection with Castle and Cooke Homes Hawaii, Inc.'s ("Castle & Cooke") Mililani Mauka Offsite Phase 16 roadway improvements project ("Proposed Project").

I.

Background

A.

HECO

HECO is a Hawaii corporation, which was initially organized under the laws of the Kingdom of Hawaii on or about October 13, 1891. HECO is a public utility as defined by HRS § 269-1, and is engaged in the production, purchase,

transmission, distribution, and sale of electricity on the island of Oahu in the State of Hawaii.

B.

Application

On May 31, 2006, HECO filed an application¹ for commission approval to relocate a portion of its existing overhead 46 kV subtransmission and 12 kV distribution lines underground along Ukuwai Street toward Koolani Drive in Mililani Mauka to "facilitate housing development projects MF 120 (132 multi-family units) and MF 121 (80 multi-family units) in Mililani Mauka" for Castle & Cooke.²

According to HECO, the Proposed Project involves the installation of approximately 900 circuit feet of 1500 kcm 46 kV underground cable and 600 circuit feet of 1000 kcm 12 kV underground cable and associated splices. HECO states that the work also includes:

[T]he installation of three 65-foot wood poles, one 1-1/4" anchor, one 1" anchor, one 46 kV riser, one 46 kV switch, approximately 100 circuit feet of 46 kV overhead conductors, and one 12 kV riser and switch. One wood pole, P353, is being relocated 1-2 feet due to the alignment of a proposed sidewalk. The existing wood pole P353 is 65 feet in height and will be replaced with a new pole of the same height. Two new 65-foot wood poles are required for the 46 kV riser and 46 kV switch, respectively, and will be installed directly in-line with the existing pole alignment.

¹Application; Certificate of Service; and Exhibits I and II, filed on May 31, 2006 ("Application"). HECO served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to all commission proceedings, pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

²Application at 1.

(The riser and switch poles are the minimum 46 kV overhead facilities required for the underground conversion.) Eight wood poles, approximately 1,055 circuit feet of 46 kV overhead conductors, and approximately 655 circuit feet of 12 kV overhead conductors will be removed as part of [the Proposed Project].

Application at 3.

Castle & Cooke "will be installing the necessary underground infrastructure (i.e., ducts and manholes) required for [the Proposed Project]"³ which includes one 6' X 14' manhole, approximately 500 circuit feet of 4-5" ducts for the 46 kV underground cable, and approximately 425 circuit feet of 2-5" ducts for the 12 kV underground cable.

Castle & Cooke is paying the entire estimated cost of the Proposed Project, i.e., \$416,907, including an in-kind contribution-in-aid-of-construction ("CIAC") of \$137,270 for the ducts and manholes required for the underground conversion, and a cash CIAC of \$279,637 for the estimated electrical costs for the relocation. Castle and Cooke has made an initial cash CIAC payment of \$58,254 (20% of costs) to begin the engineering design. The balance will be required prior to HECO starting construction.⁴

³Id. at 4.

⁴HECO and the Developer have executed a letter agreement dated December 23, 2006, for the Proposed Project. See Application, Exhibit II. The total Developer contribution, i.e., 100% of the Proposed Project costs, is \$428,540, including an in-kind contribution of \$137,270, cash contribution of \$279,637, and a General Excise Tax payment of \$11,633. Application at 4, n.1.

HECO represents that the Proposed Project satisfies the requirements of HRS § 269-27.6(a)(3)⁵ as Castle & Cooke has requested that the existing overhead line on Ukuwai Street be relocated underground and has agreed to pay the entire estimated cost of the 46 kV and 12 kV relocations in the form of in-kind and cash CIAC.

Castle & Cooke began construction on the infrastructure (ducts and manholes) in April 2006 and is expected to complete this work by September 2006. HECO requests commission approval by the end of September 2006 to allow HECO to begin construction, as delays in HECO completing its relocation could delay Castle & Cooke's infrastructure work and the delivery of housing units as scheduled.

B.

Consumer Advocate's Statement of Position

On September 8, 2006, the Consumer Advocate filed its statement of position ("Statement of Position") in which it does not object to the commission's approval of the Application.

As an initial matter, the Consumer Advocate considered "whether a public hearing for the [P]roposed [P]roject should be held" pursuant to HRS § 269-27.5 because "the [P]roposed [P]roject requires the placement of new 46 kV overhead

⁵HRS § 269-27.6(a)(3) provides, in relevant part that the commission shall determine whether a proposed system shall be placed overhead or underground by considering, among other factors, whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding.

facilities"⁶ and will be relocated to an area zoned residential. In making its determination, the Consumer Advocate reviewed prior commission decisions in connection with proposed projects involving changes in the alignment or configuration of existing transmission facilities.⁷ The Consumer Advocate also reviewed the legislative history of HRS § 269-27.5.⁸ It concluded that in the instant docket, "there are no 'substantial' differences between the original facilities and the proposed relocated facilities,"⁹ and thus, no need for a public hearing pursuant to HRS § 269-27.5.

With respect to HRS § 269-27.6(a), the Consumer Advocate states that "the relocation work proposed in

⁶Application at 4.

⁷See, e.g., Decision and Order No. 20997, filed on May 21, 2004 in Docket No. 04-0067; Order No. 12352, filed on April 26, 1993, in Docket No. 7644; and Order No. 13743, filed on January 23, 1995, in Docket No. 94-0354. The Consumer Advocate also notes that the instant docket appears to be a continuation of work that was the subject of In re Hawaiian Electric Company, Inc., Docket No. 04-0067 (April 12, 2004).

⁸According to the Consumer Advocate, the legislative history of HRS § 269-27.5 states that:

[It] is not intended to require public hearings for routine matters such as reconductoring lines, placing new transformers on existing systems or replacing the same type of equipment on an existing system. Rather, it is intended to cover the type of situation where a new transmission system is proposed to be installed, such as recently occurred in Palolo Valley where considerable public interest was expressed over plans to construct a new 138 kV transmission system through the Valley."

Consumer Advocate's Statement of Position at 4-5 (citing Standing Committee Report No. 506-76, 1976 Senate J. 1101).

⁹Id. at 6.

the instant application appears to be an extension of the project that was the subject of Docket No. 04-0067," and thus like Docket No. 04-0067 is a "'reconfiguration' of the existing system,"¹⁰ for which an HRS § 269-27.6(a) determination is not required. If, however, the commission determines otherwise the Consumer Advocate does not object to the commission's approval of the Application.

II.

Discussion

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;

¹⁰The Consumer Advocate states that in a similar case, In re Hawaiian Electric Company, Inc., Docket No. 04-0067, the commission found that HRS § 269-27.6(a) did not apply to work involving a reconfiguration of an existing system. Decision and Order No. 20997 (May 21, 2004). Id. at 8.

(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).

Here, the Consumer Advocate argues that the Proposed Project is an extension of the work proposed in Docket No. 04-0067 where the commission held that HRS § 269-27.6(a) does not apply because it "is a reconfiguration of the existing system" and not "the placement, construction, or building of a new 46 kV or greater high-voltage electric transmission system."¹¹ Accordingly, the Consumer Advocate argues that, like Docket No. 04-0067, commission approval is not required under HRS § 269-27.6(a). Given the records in both dockets, the commission agrees with the Consumer Advocate and finds that HRS § 269-27.6(a) does not apply because the Proposed Project is a reconfiguration of an existing system.

Even if HRS § 269-27.6(a) applied, the commission would find that HECO's request should be approved. As discussed above, Castle & Cooke will provide HECO with cash and in-kind CIAC to compensate HECO for the Proposed Project's costs, currently estimated to be \$416,907. Thus, there are benefits that outweigh the cost of placing a portion of the transmission facilities

¹¹In re Hawaiian Elec. Co., Inc., Docket No. 04-0067, Decision and Order No. 20997 filed on May 21, 2004, at 8.

underground in that as long as the CIAC is equal to the cost of the Proposed Project, HECO ratepayers are not expected to bear any responsibility for the capital cost of the Proposed Project.¹²

The commission knows of no governmental policy requiring the underground placement of the proposed overhead 46 kV facilities. Neither is there any other governmental agency or party willing to pay the additional cost of undergrounding the 46 kV facilities that are presently constructed above the ground. Additionally, under HRS § 269-27.6(a)(4), after reviewing the Proposed Project, the Consumer Advocate "does not object to the relocation of the 46kV line to the proposed underground and overhead facilities" as proposed.¹³ The Consumer Advocate reserves the right, however, to review the final project costs and to consider any differential between the estimated and actual costs, if any, in the rate proceeding immediately following completion of the Proposed Project, to the extent that the CIAC from Castle & Cooke is currently based on estimated costs to complete the Proposed Project.¹⁴

¹²As the Consumer Advocate points out, however, there are no benefits which outweigh the costs of placing the proposed overhead facilities underground because eventually, the underground facilities must be connected to the above-ground facilities. Id. at 9-10.

¹³Id. at 11.

¹⁴Id. at 11 n.19.

III.

Orders

THE COMMISSION ORDERS:

1. HECO's request for a commission determination that the 46 kV subtransmission line, as described in the Application, be constructed below the surface of the ground, pursuant to HRS § 269-27.6(a), does not require commission approval.

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

DONE at Honolulu, Hawaii NOV 21 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Benedyne S. Stone
Benedyne S. Stone
Commission Counsel

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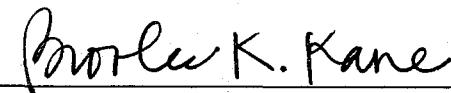
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23047 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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for Karen Higashi

DATED: NOV 21 2006