

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
 HAWAIIAN ELECTRIC COMPANY, INC.)
)
 For Approval of a Waiver of Rule 13)
 of HECO's Tariff to Allow HECO to)
 Pay for a Portion of Item P0001072,)
 Conversion from Overhead to)
 Underground, within the Kaka'ako)
 Redevelopment District, Improvement)
 District 12.)
 _____)

DOCKET NO. 05-0212

DECISION AND ORDER NO. 23098

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

2006 DEC -4 A 9:01

RECEIVED

Filed Dec. 1, 2006
At 11 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

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Approval of a Waiver of Rule 13))
of HECO's Tariff to Allow HECO to)
Pay for a Portion of Item P0001072,))
Conversion from Overhead to)
Underground, within the Kaka`ako)
Redevelopment District, Improvement))
District 12.)
_____)

Docket No. 05-0212

Decision and Order No. 23098

DECISION AND ORDER

By this Decision and Order, the commission approves HAWAIIAN ELECTRIC COMPANY, INC.'s ("HECO")¹ request for a waiver of Rule 13 of its tariff ("Rule 13") to allow HECO to contribute approximately \$727,441 to convert existing 11.5kV overhead facilities to 25kV underground facilities along Ahui Street, Koula Street, Ohe Lane, and Olomehani Street for Item P0001072, Conversion from Overhead to Underground within the Kaka`ako Redevelopment District, Improvement District 12 ("ID12") ("Conversion Project").

¹HECO is a Hawaii corporation and a public utility as defined by Hawaii Revised Statutes ("HRS") § 269-1. HECO was initially organized under the laws of the Kingdom of Hawaii on or about October 13, 1891. HECO is engaged in the production, purchase, transmission, distribution, and sale of electricity on the island of Oahu in the State of Hawaii.

I.

Background

A.

Application

On August 22, 2005, HECO filed an application requesting commission approval for a waiver of Rule 13 to allow HECO to contribute approximately \$758,085 for the Conversion Project ("Application").² HECO filed its request pursuant to HECO's tariff Sheet No. 1,³ and its understanding of Decision and Order No. 20473, filed on October 1, 2003, in Docket No. 03-0036. On September 19, 2006, HECO filed revised pages to its Application, informing the commission, among other things, that HECO's contribution for the Conversion Project should be \$727,441 (and not \$758,085).⁴

²HECO served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. No persons moved to intervene or participate in this proceeding.

³HECO's tariff Sheet No. 1 states, in relevant part: "[t]he 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."

⁴Although the cover letter to the revised pages states that HECO's contribution for the Conversion Project should be \$747,441, the revised pages to the Application utilizes a contribution amount of \$727,441. In addition, \$727,441 is mathematically consistent with the remaining numbers provided in the Application. Accordingly, the commission will consider HECO's revised Application as requesting a waiver of Rule 13 to allow HECO to contribute \$727,441 for the Conversion Project.

Project Description

The Conversion Project involves the conversion of existing 11.5kV overhead facilities to 25kV underground facilities along Ahui Street, Koula Street, Ohe Lane, and Olomehani Street in the ID12 project area shown on Exhibit II of the Application. According to HECO, this project will be conducted in conjunction with the requirements of the State of Hawaii-Hawaii Community Development Authority ("HCDA") for ID12.

HECO's electrical work includes the underground installation of approximately 1,200 circuit feet of 3-1/C 1000 PEICN AL 25kV cables, 100 circuit feet of 3-1/C 4/0 PEICN AL 25kV cables, 4,320 circuit feet of 3-1/C 1/0 PEICN AL 25kV cables, 190 circuit feet of 3-1/C #2 PEICN AL 12kV cables, 180 circuit feet of secondary cables, one single phase 25kV padmounted transformer, one three phase 25kV padmounted transformer, one PMH3 25kV switchgear, one Vista 25kV switchgear, and two 11.5kV risers.

The outside construction work for the underground infrastructure includes the installation of approximately 5,250 feet of 6 inch ducts; 8,900 feet of 4 inch ducts; 200 feet of 3 inch ducts; 50 feet of 2 inch ducts; seven 6' x 14' manholes; three 5' x 7' handholes; three 3' x 5' handholes; one 2' x 4' pullbox; one 7' x 9'8" switching equipment pad; one 4' x 5' manual switching equipment pad lot; one 6' x 7' transformer pad lot; and five 4" conduit pole risers.

The system betterment involves the installation of approximately 2,700 feet of two 6-inch ducts; seven 6' x 14' manholes; one PMH3 switch pad; and one Vista switch pad for the future energizing of the 25kV cables at 25kV. The system betterment will dispense with the need for HECO to "dig up" the road to install and build new infrastructure if and when the distribution voltage for this area is converted from 11.5kV to 25kV.

2.

Cost Allocations

HECO proposes to commit funds by executing a Utility Agreement with HCDA, effective upon receipt of commission approval in this docket. The total project cost is estimated at \$1,737,120 (including change-over and removal costs).⁵

The total project cost will be shared between HECO, HCDA, and the affected property owners. The estimated "Eligible Cost" will be shared 1/3 by HCDA, 1/3 by property owners, and 1/3 by HECO.⁶ In addition, any differences between the actual

⁵Pursuant to Decision and Order No. 21002, filed on May 27, 2004, in Docket No. 03-0257, effective July 1, 2004, the capital expenditures threshold of General Order No. 7 was increased from \$500,000 to \$2.5 million, excluding customer contributions. Since the amount of this project is less than \$2,500,000, commission approval pursuant to paragraph 2.3(g)(2) of General Order No. 7 is not required.

⁶The calculation of the contribution is based on HCDA's cost-sharing formula described below:

Electrical/Communication Systems

Accessible costs for these systems include the removal and installation from overhead to underground

"Eligible Cost" and the estimated "Eligible Cost" will be shared 50/50 between HECO and HCDA.⁷ Thus, HCDA and affected property owners will share in the project cost with a contribution-in-aid-of-construction of approximately \$1,009,679, and HECO's project costs will be approximately \$727,441.⁸

B.

Consumer Advocate's Position

On November 4, 2005, the Consumer Advocate filed its Statement of Position ("Consumer Advocate SOP"), informing the commission that it does not object to the commission's approval of HECO's request for a waiver of Rule 13. In its Statement of Position, the Consumer Advocate reviewed the need for the

of the existing electrical, telephone, and CATV systems including trenching, backfilling, ducts, manholes, pullboxes, cables and equipment, in place complete within the public rights-of-way. The cost allocating methods for each of these systems are depicted on Figure 5 and 5a, attached. It should be noted that the cost to be allocated is the eligible cost of each of these systems which is derived by subtracting the cost of relocating and/or removing each existing underground system, the betterment, depreciation and salvage value from the total cost of the improvements. Betterment, as herein used in the Assessment Report, is defined as the portion of each systems cost attributable to the increase in capacity of each system beyond the existing installed system.

Consumer Advocate Statement of Position at 4 n.7 (citation omitted).

⁷As stated by HECO, this is identical to the formula used in previous Kaka'ako ID projects approved by the commission, such as ID10 (Docket No. 03-0135), ID9 (Docket No. 00-0322), ID6 (Docket No. 99-0171) and ID7 (Docket No. 98-0199).

⁸Application, as revised, at 1.

project, and the reasonableness of HECO's request for a waiver of its Rule 13.⁹

In reviewing the need for the Conversion Project, the Consumer Advocate notes that "the [c]ommission has approved a number of applications in the past associated with the relocation of existing overhead utility facilities in the [HCDA] improvement districts."¹⁰ The Consumer Advocate states, "[g]iven the existing regulatory requirement as set forth by the HCDA, the relocation of existing 11.5kV overhead facilities to underground facilities is necessary."¹¹ Thus, the Consumer Advocate does not object to commission approval of HECO's request for a waiver of Rule 13 in the instant proceeding.¹²

The Consumer Advocate recognizes that HCDA has been given legislative authority to determine the cost-sharing formula.¹³ In addition, the Consumer Advocate states that HCDA's formula (which includes a two-thirds contribution of the "Eligible Cost" from HCDA and the affected property owners) "has been applied in previous dockets and has been found to be reasonable by the [c]ommission."¹⁴

⁹Consumer Advocate SOP at 2-6.

¹⁰Consumer Advocate SOP at 2 (citing Docket Nos. 02-0015 and 03-0135 as examples).

¹¹Consumer Advocate SOP at 3.

¹²Consumer Advocate SOP at 1, 4.

¹³Consumer Advocate SOP at 4.

¹⁴Consumer Advocate SOP at 4.

The Consumer Advocate expresses three concerns. First, the Consumer Advocate states that it disagrees "with HECO's belief that the sole basis for a project-specific waiver of Rule 13 is the [c]ommission's determination in Decision and Order No. 20473" ¹⁵ Rather, the Consumer Advocate "contends that any deviation from the cost allocation set forth in Rule 13.D.4 requires [c]ommission approval." ¹⁶ Second, the Consumer Advocate is concerned with the reasonableness of replacing the existing 11.5kV overhead facilities with 25kV facilities, and with the associated betterment cost of \$88,866. ¹⁷ However, the Consumer Advocate recognizes that "this issue is beyond the scope of the Company's request in the instant docket and may be resolved in Docket No. 03-0417." ¹⁸ Third, the Consumer Advocate has concerns with the reasonableness of the project costs. ¹⁹ The Consumer Advocate states that "the proposed project costs, in general, do not appear to vary significantly from the costs of prior HCDA projects." ²⁰ Nonetheless, the Consumer Advocate states that it "reserves its right to review the final costs associated with this project in the Company's rate proceeding following the completion of the project." ²¹

¹⁵Consumer Advocate SOP at 5.

¹⁶Consumer Advocate SOP at 5.

¹⁷Consumer Advocate SOP at 6.

¹⁸Consumer Advocate SOP at 6.

¹⁹Consumer Advocate SOP at 6.

²⁰Consumer Advocate SOP at 6.

²¹Consumer Advocate SOP at 6.

C.

Policies and Guidelines

By Decision and Order No. 21003, filed on May 27, 2004, in Docket No. 03-0260, the commission ordered HECO and the Consumer Advocate to develop stipulated agreements regarding policies on underground lines and requiring contributions, for the commission's review and approval.²²

On March 15, 2006, HECO and the Consumer Advocate submitted the following agreements: (1) Policy on Underground Lines (dated March 2006); (2) Hawaiian Electric Company's Cost Contribution for Placing Overhead Distribution Lines Underground, Guideline Summary (updated March 2006) (together with the Policy on Underground Lines, "Underground Line Policies"); and (3) Hawaiian Electric Company, Inc., Dedicated and System Substation Guideline (dated March 2006) (collectively, "Policies and Guidelines").²³

By Order No. 22467, filed on May 16, 2006, in Docket No. 03-0260, the commission approved the Policies and Guidelines, with a slight modification to the Policy on Underground Lines.

²²See Decision and Order No. 21003, filed on May 27, 2004, in Docket No. 03-0260, at 22-23.

²³The first two documents are the policies and guidelines that HECO will apply to future projects involving the installation of new underground lines or the conversion of existing overhead lines to underground. See Order No. 22467, filed on May 16, 2006, in Docket No. 03-0260, at 3. The third document applies to projects involving the construction of new system substations or new dedicated substations.

On May 24, 2006, HECO filed its revised Policy on Underground Lines.

II.

Discussion

HECO's tariff Rule No. 13.D.4 states:

When mutually agreed upon by the customer or applicant and [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.

Any deviation from the cost allocation set forth in Rule 13.D.4 requires commission approval. In the instant proceeding, HECO proposes to depart from its Rule 13.D.4. The deviation, however, is due to HECO's compliance with the cost-sharing formula determined by HCDA. Nonetheless, whether a cost-sharing calculation is based on the company's internal policy or required by a governmental authority, HECO should obtain express commission approval of a waiver of Rule 13 pursuant to HRS §§ 269-16(b) and -12(b).

Pursuant to HRS § 206E-6, HCDA has the authority to "develop a district-wide improvement program to identify necessary district-wide public facilities within [the Kaka'ako Community Development District ('KCDD')]." Pursuant to HCDA's administrative rules, "[p]ublic utility companies shall place

utility lines underground within the mauka area."²⁴ In addition, pursuant to HRS § 206E-6(i), HCDA has the authority to allocate the costs of undergrounding the overhead facilities. Indeed, as explained in Decision and Order No. 13420, filed on August 4, 1994, in Docket No. 94-0024,

The legislature created HCDA to identify and establish community development districts for urban renewal and improvement. The legislature also designated the [KCDD] as one such community development district. In pursuing its mandate, HCDA is empowered to plan, locate, and develop public facilities to support the KCDD development, and establish community development rules on health, safety, building, planning, zoning, and land use.

HCDA's redevelopment plans are incorporated by reference into state law through the addition of a new subchapter to the HCDA administrative rules. As part of its overall plans for the redevelopment of Kakaako, HCDA has determined that existing overhead lines in KCDD should be placed underground. Thus, HECO is required, by law, to place designated lines underground.

The legislature also empowered HCDA to allocate the costs of redevelopment between HCDA, the affected public utilities, and properties that may benefit from the improvements.²⁵

Thus, the Conversion Project is required by law, and the commission will not review HCDA's allocation of those costs.²⁶

²⁴HAR § 15-22-76. For an unofficial compilation of HAR, title 15, Department of Business, Economic Development & Tourism, subtitle 4, HCDA, chapter 22, Mauka Area Rules, amended June 13, 2005, see http://www.hcdaweb.org/impages/maukaarearulesjune2005_a636.pdf.

²⁵Decision and Order No. 13420, filed on August 4, 1994, in Docket No. 94-0024, at 2-3.

²⁶See Decision and Order No. 13420, filed on August 4, 1994, in Docket No. 94-0024, at 4.

In addition, the Conversion Project appears to be consistent with the commission-approved Underground Line Policies. HECO's Policy on Underground Lines states,

HECO will convert existing overhead lines to underground lines:

- As part of an eligible community or government-initiated project to underground HECO's distribution and service lines (25kV and below). Provided that monies are available, HECO shall contribute at 100% its cost, the planning, design, material procurement and construction of the electrical work (e.g., cable installation, transformers, terminations, etc.). The community and/or government agency shall perform at 100% its cost, the planning, design, material procurement and construction of the civil/structural infrastructure work (e.g., trenching, ductline construction, manholes, etc.)²⁷

Similarly, HECO's Cost Contribution for Placing Overhead Distribution Lines Underground, Guideline Summary, states that when converting existing overhead lines to underground lines,

HECO will perform and pay for 100% of the planning, design and construction of the electrical work for its facilities if the community and/or government are willing to perform and pay for 100% of the planning, design and construction of the ductline infrastructure to bury existing neighborhood distribution lines (25kV and below).²⁸

Upon careful review of the record, the commission finds that the Conversion Project is reasonable and in the public

²⁷HECO's Policy on Underground Lines, filed on May 24, 2006, in Docket No. 03-0260 (certain formatting omitted).

²⁸HECO's Cost Contribution for Placing Overhead Distribution Lines Underground, Guideline Summary, filed on March 15, 2006, in Docket No. 03-0260.

interest. First, HCDA requires that the existing overhead electrical lines in the Kaka'ako district be placed underground, and the Conversion Project appears to be consistent with the purposes of chapter 206E, HRS. Second, considering the anticipated growth in the area and the corresponding need for more capacity, it appears that HECO's system betterment costs for the project are reasonable and in furtherance of the goals of HCDA and chapter 206E, HRS. Third, the cost sharing formula proposed by HECO in its Application was developed by HCDA and appears to be consistent with the purposes of chapter 206E, HRS and the commission-approved Underground Line Policies. Finally, under the cost sharing formula, HCDA and the affected property owners will contribute approximately \$1,009,679 to the project. Thus, the commission determines that HECO's request for a waiver from Rule 13 to allow it to contribute a net amount of \$727,441 for the Conversion Project should be approved.

III.

Orders

THE COMMISSION ORDERS:

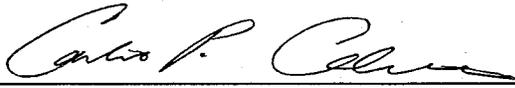
1. HECO's request for a waiver of its tariff Rule 13 to allow HECO to contribute approximately \$727,441 for the Conversion Project is approved; provided that no part of the project may be recovered from HECO's ratepayers unless and until approval for such recovery is granted by the commission in HECO's next general rate increase proceeding.

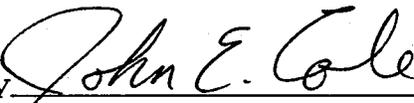
2. Within thirty (30) days after the completion of the Conversion Project, HECO shall file a final cost report with the commission and serve two (2) copies of the same on the Consumer Advocate.

3. HECO shall conform to the commission's orders set forth above. Failure to adhere to the commission's orders will constitute cause for the commission to void this Decision and Order, and may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii DEC - 1 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Nichole K. Shimamoto
Commission Counsel

05-0212.eh

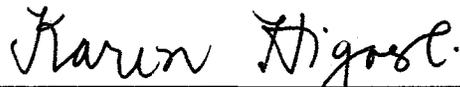
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23098 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P. O. Box 541
Honolulu, HI 96809

WILLIAM A. BONNET
VICE PRESIDENT - GOVERNMENT AND COMMUNITY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. BOX 2750
Honolulu, HI 96840-0001

DEAN MATSUURA
DIRECTOR - REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P.O. BOX 2750
Honolulu, HI 96840-0001



Karen Higashi

DATED: DEC - 1 2006