

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

HAWAIIAN ELECTRIC COMPANY, INC. )

DOCKET NO. 2007-0189

For Approval to Sell the Waianae  
Substation Remnant Site )  
\_\_\_\_\_)

DECISION AND ORDER NO. 24098

Filed March 20, 2008

At 1:30 o'clock P.M.

Karen Higashi

Chief Clerk of the Commission

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

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KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii

Karen Higashi

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DECISION AND ORDER

By this Decision and Order, the commission approves HAWAIIAN ELECTRIC COMPANY, INC.'s ("HECO") sale of part of the Waianae Substation site; specifically, the property located at 85-576 Waianae Valley Road identified as Lot 342-A-2 ("the Property"). HECO does not intend to sell the adjoining property, Lot 342-A-1, which will be retained for the site of a future substation ("Lot 342-A-1").

I.

Background

A.

HECO

HECO 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.

B.

Application

On July 16, 2007, HECO filed an application requesting commission approval to sell part of the Waianae Substation remnant site ("Application"),<sup>1</sup> in accordance with HRS § 269-19 and Paragraph 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. In its Application, HECO requests commission approval to sell the Property ("Proposed Transaction") on the ground that the Property is no longer needed for utility purposes.<sup>2</sup>

C.

The Property

HECO states that it acquired a 98,719 square foot property located at 85-576 Waianae Valley Road (tax map key number 1-8-5-019:080) in 1997 for approximately \$234,000.<sup>3</sup> This land was a portion of Lot 342-A, as shown on Map 341 of

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<sup>1</sup>On July 16, 2007, HECO served a copy of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"). The Consumer Advocate is an ex officio party to this docket, pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

<sup>2</sup>On August 3, 2007, the Consumer Advocate submitted information requests ("IRs") to HECO. On September 6, 2007, HECO provided responses to the Consumer Advocate's IRs ("HECO's Response").

<sup>3</sup>See Application, at 3 and Attachment 1, and HECO's Response to CA-IR-2(b).

Land Court Application No. 1102.<sup>4</sup> HECO classified the entire lot 342-A as utility plant in service.<sup>5</sup> On November 17, 1998, the Land Court of the State of Hawaii approved the subdivision of Lot 342-A into Lots 342-A-1 (28,719 square feet) and 342-A-2 (70,000 square feet).<sup>6</sup>

HECO states that in December 2000, it reclassified the Property as non-utility property.<sup>7</sup> HECO states that "[t]here are no plans to use the Property for utility purposes or to expand the proposed Waianae Substation, which HECO will build on the adjoining parcel (Lot 342-A-1). The Property is considered a remnant parcel and is not needed by HECO."<sup>8</sup>

HECO asserts that "[t]he sale of the Property will not adversely affect HECO's performance of its duties to the public."<sup>9</sup>

D.

Proposed Transaction

According to HECO, the current land and net book value of the Property is \$152,886.54.<sup>10</sup> HECO states:

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<sup>4</sup>Application, at 3.

<sup>5</sup>Application, at 3.

<sup>6</sup>Application, at 3 and HECO's Response to CA-IR-2(a) and (b).

<sup>7</sup>Application, at 3.

<sup>8</sup>Application, at 3.

<sup>9</sup>Application, at 3.

<sup>10</sup>Application, at 3 and Attachment 1.

For tax year 2000-2001, the City and County of Honolulu Real Property Tax Office (the "Tax Office") assessed Lot 342-A-1 at \$65,900 and Lot 342-A-2 at \$123,700 (or a combined assessment of \$189,600). The percent relationship between the two lots (i.e., Lots 342-A-1 and 342-A-2) for the 2000-2001 assessment was 34.76% and 65.24%, respectively. Using these percentages, the purchase price of \$234,344.79 was allocated \$81,458.25 (34.76%) to Lot 342-A-1 and \$152,886.54 (65.24%) to Lot 342-A-2. Using the same or similar percentages as the Tax Office in the sales price allocation seemed reasonable in light of the fact that Lot 342-A-1 appears to be the more valuable property due to its having a larger street frontage and access.

HECO's Response to CA-IR-2(c).

HECO had the Property appraised by an outside appraiser, who estimated a market value of \$300,000 as of August 25, 2006.<sup>11</sup> In 2007, HECO became aware of a listing at a lower price for a larger parcel of land and decided to list the property in the Honolulu Advertiser, Sunday edition, on April 1 and 8, 2007 for \$249,000.<sup>12</sup> On April 13, 2007, HECO received an offer of \$225,000 from Scott McCoy.<sup>13</sup> Mr. McCoy claimed that he could not offer full asking price for the following reasons:

1) the Property lacks infrastructure for water, sewer and utility hookups for future development, 2) the value of the Property when considering its location in proximity to

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<sup>11</sup>Application, at 3.

<sup>12</sup>Application, at 3 and HECO's Response to CA-IR-1(b).

<sup>13</sup>Application, at 3-4.

the future substation site, and  
3) development limitations due to the  
Property's AG-2 zoning.

Application, at 4.

HECO counter-offered on April 17, 2007, for \$234,000.<sup>14</sup> Mr. McCoy accepted.<sup>15</sup> HECO states that its in-house appraiser reviewed the proposed sale amount and considered it a fair price in light of the softening of property values in the area.<sup>16</sup> On May 3, 2007, HECO and Mr. McCoy signed a purchase agreement, subject to approval by the commission.<sup>17</sup>

HECO proposes that the net gain from the sale should be apportioned on a prorated basis between the period during which the Property was classified as utility property, and the period during which the Property was reclassified as non-utility property.<sup>18</sup>

HECO proposes that the net gain from the sale be "applied to NARUC account 253 'Other Deferred Credits,' and amortized on a straight line basis to utility operating income . . . over a five-year period."<sup>19</sup> HECO further proposes that the five-year period begin in the month following the sale of the Property and that HECO deduct the unamortized balance in the

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<sup>14</sup>Application, at 4.

<sup>15</sup>Application, at 4.

<sup>16</sup>Application, at 4 and HECO's Response to CA-IR-1(b), (c), and (d).

<sup>17</sup>Application, at 4.

<sup>18</sup>Application, at 4-5.

<sup>19</sup>Application, at 5.

"Other Deferred Credits" from rate base.<sup>20</sup> HECO states, "[t]he net gain allocated to non-utility property shall be credited to other non-utility income NARUC account 422 'Gains (Losses) from Disposition of Property.'" <sup>21</sup>

E.

Consumer Advocate's Position

On October 12, 2007, the Consumer Advocate filed its Statement of Position ("Consumer Advocate's SOP"), informing the commission that it does not object to the commission's approval of HECO's request. The Consumer Advocate reviewed the reasonableness of the request and notes:

In December 2000, the cost of Lot 342 A-2 was reclassified to non-utility property after the Company determined that the site was not suitable for storage purposes. Furthermore, HECO represents that the Company has no plans to use Lot 342 A-2 for utility purposes or to expand the proposed Waianae substation. Based on these representations, the Consumer Advocate concurs that the sale of the property will not adversely affect HECO's ability to provide reliable service and the proposal to sell the Property is reasonable.

Consumer Advocate's SOP, at 4 (footnotes omitted).

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<sup>20</sup>Application, at 5. HECO asserts that its proposed use of gains from the sale of the Property is based on past commission decisions. See Application, at 5.

<sup>21</sup>Application, at 5.

The Consumer Advocate concluded that at \$234,000, the 70,000 square foot lot cost \$3.34 per square foot.<sup>22</sup> When compared to other lots similarly located, the Consumer Advocate states that it "believes that the sales price of \$234,000 for the subject property appears to be reasonable."<sup>23</sup>

With regard to HECO's proposed accounting treatment, the Consumer Advocate notes: "the gain from the sale of the Property is estimated to be \$56,113." Consumer Advocate's SOP, at 5-6. In analyzing HECO's submission, the Consumer Advocate states:

HECO's proposal allocates more costs to the land value that will be reflected in rate base for future rate proceedings that follow the commercial operation of the proposed substation. On the other hand, [HECO's] proposed allocation increases the amount of gain to be realized from the proposed sale of [the Property]. The dollar magnitude of the differing allocation methods, however, is insignificant when considering HECO's 2007 rate base and resulting revenue requirement. Thus, the Consumer Advocate will not object to [HECO's] allocation of the total purchase cost of Lot 342-A using the 2000-2001 tax assessment.

Consumer Advocate's SOP, at 6 (footnote omitted). The Consumer Advocate "does not object to [HECO's] proposed accounting for the gain on the sale of the [P]roperty since HECO's proposal is consistent with prior [c]ommission precedence on the matter." Consumer Advocate's SOP, at 7.<sup>24</sup>

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<sup>22</sup>Consumer Advocate's SOP, at 5 and HECO's Response to CA-IR-1(c) and (d).

<sup>23</sup>Consumer Advocate's SOP, at 5 and HECO's Response to CA-IR-1(c) and (d).

<sup>24</sup>The Consumer Advocate notes that in Decision and Order No. 16935, filed on April 14, 1999, in Docket No. 98-0314, HECO sought and received commission approval to sell six properties,



## II.

### Discussion

HRS § 269-19 provides that "[n]o public utility corporation shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit, or any right thereunder . . . without first having secured from the public utilities commission an order authorizing it so to do." HRS § 269-19 also states: "Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission shall be void."

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including one which was acquired by HECO to be the site of a new Waianae Substation. Consumer Advocate's SOP, at 7. However, HECO decided not to build on that property due to community opposition to locating the substation at that site. CA-IR-3.

The Consumer Advocate observes that in Docket No. 98-0314, HECO stated that it intended to "partially offset the cost of acquisition of [the Property] with the proceeds from the sale of the former Waianae site." Consumer Advocate's SOP, at 8. The Consumer Advocate notes that "such an adjustment may not be required in light of [HECO's] proposal to account for the gain, if any, from the sale of the former substation property in the same manner that has been authorized by the [c]ommission in other proceedings." Consumer Advocate's SOP, at 8. The Consumer Advocate recommends that HECO keep the commission informed of its efforts to sell the properties in Docket No. 98-0314.

In Docket No. 98-0314, HECO has been filing letters providing details of the sale of each property. HECO sold a portion of the former Waianae Substation property and stated that it "will keep the [c]ommission informed of developments in this matter." See HECO's Letter to the commission, dated October 22, 2007, in Docket No. 98-0314, at 1. Subsequently, HECO informed the commission that it had sold the remaining portion of the former Waianae Substation property on February 15, 2008. See HECO's Letter dated February 29, 2008, in Docket No. 98-0314, at 1. Therefore, the commission finds that the Consumer Advocate's recommendation is not necessary.

Paragraph 13 of the "Conditions for the Merger and Corporate Restructuring of Hawaiian Electric Company, Inc." mandates that HECO "shall not transfer any of its property which is or was in the rate base . . . without the prior approval of the [c]ommission." It also states that the "determination of the transfer value and the accounting and rate-making treatment thereof shall be determined by the [c]ommission at the time of approval of such transfer."

Here, HECO requests approval to sell the Property to Mr. McCoy. As asserted by the Consumer Advocate, the conveyance is reasonable under the circumstances since the Property is not needed for utility purposes; nor will sale of the Property adversely affect HECO's performance of its duties to the public. It is therefore reasonable for HECO to sell the Property. Moreover, the sales price and the proposed accounting treatment of the gain are reasonable.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. HECO's request for approval of the sale of Lot 342-A-2, to Scott McCoy for \$234,000, is approved.
2. This docket is closed unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii MAR 20 2008.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

By Leslie H. Kondo  
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Jodi L. K. Yi  
Jodi L. K. Yi  
Commission Counsel

2007-0189.laa

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 24098 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: MAR 20 2008