

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
KAUAI ISLAND UTILITY COOPERATIVE)
For Approval to underground a)
portion of its existing 69kV)
electric transmission line along)
Kuhio Highway.)

DOCKET NO. 2009-0038

DECISION AND ORDER

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

PUBLIC UTILITIES
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DECISION AND ORDER

By this Decision and Order, the commission approves KAUAI ISLAND UTILITY COOPERATIVE's ("KIUC") request to construct a sixty-nine kilovolt ("kV") electric transmission line below the surface of the ground along Kuhio Highway ("Project") as described in its application filed on February 20, 2009, pursuant to Hawaii Revised Statutes ("HRS") § 269-27.6(a).

I.

Background

KIUC is a Hawaii not-for-profit electric cooperative organized under the laws of the State of Hawaii with its principal place of business in Lihue, Kauai, Hawaii. An operating public utility, KIUC is engaged in the production, transmission, distribution, purchase, and sale of electric energy on the island of Kauai.

A.

KIUC'S Application

By application filed on February 20, 2009,¹ KIUC requested commission approval to underground a portion of KIUC's existing 69kV electric transmission and 12kV distribution lines along Kuhio Highway. KIUC is proposing to underground approximately 1.6 miles of existing single circuit overhead 69kV transmission, and 12kV distribution lines from KIUC's Lydgate Substation at the north corner of Leho Drive to the north corner of the Kapaa Temporary Bypass Road. The existing overhead line currently traverses the makai side of Kuhio Highway from Lydgate Substation, crosses over at Wailua Bridge to the mauka side of the highway up to Kapaa Substation.² KIUC states that the 69kV transmission line is a critical part of its transmission grid and serves to move bulk power between the Kapaia Power Station, Lydgate Substation, and Kapaa Substation.

KIUC states that the Project will accommodate the State of Hawaii, Department of Transportation's ("DOT") plans to widen the roadway along Kuhio Highway from Kuamoo Road to the Kapaa Temporary Bypass Road (the "Wailua Corridor"). DOT will construct two additional lanes along Kuhio Highway to serve north and south-bound traffic to alleviate traffic congestion within the Wailua Corridor area.

¹Application; Exhibits A to E; Verification; and Certificate of Service, filed on February 20, 2009 ("Application").

²Application, at 4 and Exhibits A and B.

The DOT's road widening project utilizes Federal funds. During the review process, the United States Fish and Wildlife Service ("USFWS") added a requirement to underground KIUC's transmission and distribution lines since they are within the "flyway" of the Newell's Shearwater and other threatened seabirds. KIUC notes:

As background, the island of Kauai is the home of two species of seabirds (Newell's Shearwater and Hawaiian Petrel), which are listed as threatened or endangered under the Federal Endangered Species Act. These two species, along with the Band-Rumped Storm Petrel, are also listed as threatened or endangered under Hawaii law (HRS Chapter 195D). Several "flyways" or "hot spots" exist on the island of Kauai where these threatened and endangered seabirds are known to travel between their inland breeding colonies and their feeding areas at sea. Although downed birds are found in other areas, the vast majority of them are found in these flyways where the potential for bird collisions with existing power lines is highest. One of the heaviest traveled of these flyways is the area centered on the Wailua River, which is located within the footprint of the DOT's road widening project and KIUC's Project.

Application, at 5 n.5. KIUC states that undergrounding the transmission and distribution lines will reduce the likelihood of Newell's Shearwater collisions with utility lines in the area.³

The cost of construction for the Project is estimated to be approximately \$16,000,000. The DOT has agreed to pay for the entire cost of construction, which will be funded through Federal stimulus monies. KIUC will pay for design costs, which

³Application, at 5.

are currently estimated to be approximately \$450,000 to \$500,000. KIUC estimates that the Project will take approximately two years to complete.⁴

KIUC states that there are several benefits that outweigh KIUC's costs of placing the lines underground. The benefits of undergrounding include aesthetic considerations such as preserving viewplanes and scenic resources, which may increase property values for the property owners along the route. According to KIUC, undergrounding will increase public and worker safety due to a potential reduction in fatalities and injuries due to contact with overhead facilities, reduced public exposure to electromagnetic fields and dangers by fire and other threats to life, including increased traffic safety. KIUC asserts that undergrounding will reduce power outages caused by overhead incidents, vehicle collisions, and wind-blown debris. Undergrounding also provides a higher level of service reliability than overhead lines by protecting the facilities from the elements and improving their ability to withstand weather-related damage (i.e., tsunami, hurricane, high winds). According to KIUC, the cost for the Project would ordinarily be prohibitively expensive. However, as most of the cost will be funded by Federal stimulus funds, the benefits of placing the lines underground outweigh the costs to KIUC's members and customers.

⁴Application, at 6-7.

According to KIUC, the Project is indirectly supported by several governmental policy considerations. The Project would use Federal economic stimulus funds which provide resources for local communities to address transportation investments with the goal of creating and saving jobs and boosting the local economy. The Project will save commuters time and money by increasing capacity and reducing travel time on Kuhio Highway. KIUC asserts that the reduction in traffic congestion will make the roads safer.⁵ Moreover, undergrounding promotes environmental protection policies since it will reduce or eliminate the potential for any endangered or threatened seabirds to collide with, or otherwise be harmed by, overhead lines. Therefore, KIUC will not be exposed to potential liability or fines for harming or "taking" any threatened or endangered species under the Federal or State Endangered Species Acts.

B.

Consumer Advocate's Position

On April 20, 2009, the Consumer Advocate filed its Statement of Position⁶ indicating that it does not object to approval of the Application. In its review of the Application, the Consumer Advocate considered the criteria set forth in HRS § 269-27.6(a). The Consumer Advocate states that it would cost KIUC in excess of \$1 million to relocate the instant

⁵Application, at 11.

⁶Division of Consumer Advocacy's Statement of Position, filed on April 20, 2009 ("CA's SOP").

facilities overhead if Federal funds were not available.⁷ The Consumer Advocate notes that the cost to relocate the facilities overhead is estimated to have an approximately 50% greater impact to the ratepayers than the proposed Project, which utilizes Federal funds.

The Consumer Advocate, however, states that, in the event that Federal stimulus monies are not to be used for the Project, the following should apply:

To the extent that [KIUC] does not receive Federal stimulus monies for the instant project, the Consumer Advocate anticipates that [KIUC] will file a capital improvement project application as set forth in General Order No. 7, 2.3.g.2 and Decision and Order No. 21002, in which KIUC must seek approval to commit funds for capital expenditures more than \$2.5 million. To the extent that such a review is necessary, the Consumer Advocate will re-assess the reasonableness of relocating the instant facilities underground.

CA's SOP, at 6. Based on its review of the Application under HRS § 269-27.6(a), the Consumer Advocate states that it does not object to approval of the Project.

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

⁷See CA's SOP, at 4.

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), it will be more expensive to KIUC to place the lines overhead rather than underground, given the availability of federal funds for the Project. In addition, as cited by KIUC, there are numerous benefits of undergrounding the lines. Thus, the commission finds that the benefits of placing the lines underground outweigh the minimal costs.

Second, under HRS § 269-27.6(a)(2), the commission is not aware of any specific governmental policy related to this Project.

Third, under HRS § 269-27.6(a)(3), the commission notes that Federal funds are available to pay for most of the costs associated with the Project.

Fourth, under HRS § 269-27.6(a)(4), the commission recognizes that the Consumer Advocate, after considering the Proposed Project under HRS § 269-27.6(a), states that it "does not object to the [c]ommission's approval of the instant application."⁸

Based on the foregoing, the commission concludes that KIUC's proposal to underground 69kV transmission and 12kV distribution lines, as described in the Application, should be approved.

III.

Order

THE COMMISSION ORDERS:

KIUC'S proposal to underground a portion of KIUC's existing 69kV transmission and 12kV distribution lines along Kuhio Highway, as described in its Application, is approved.

⁸See CA's SOP, at 1.

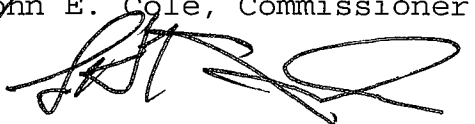
DONE at Honolulu, Hawaii

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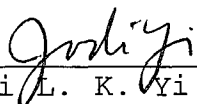
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner


By
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Jodi L. K. Yi
Commission Counsel

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CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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