

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 the)
Underground Conversion Cost for)
Item P0043903, Philip White)
Underground Conversion - 3711)
Diamond Head Road.)

DOCKET NO. 2008-0175

DECISION AND ORDER

FILED
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PUBLIC UTILITIES
COMMISSION

separate, docketed application for approval of its tariff rules which incorporate its Policy on Underground Lines, Cost Contribution Summary, and Dedicated and System Substation Guideline, as further described herein.

I.

Background

A.

Prior Commission Dockets

The commission finds useful a review of its prior commission dockets involving the cost sharing of overhead to underground electrical line conversion projects.

On October 1, 2003, in In re Hawaiian Elec. Co., Inc., Docket No. 03-0036 ("Docket No. 03-0036"), involving the overhead to underground conversion of certain distribution lines as part of the Kailua Road Underground Conversion Project, the commission held that HECO's intent to depart from its Rule 13 requires the commission's approval in the form of an affirmative waiver of Rule 13.²

On May 27, 2004, in In re Hawaiian Elec. Co., Inc., Docket No. 03-0260 ("Docket No. 03-0260"), the commission approved, subject to certain conditions, HECO's requests to: (1) expend funds for its new Kuahua substation; and (2) place the new 46 kilovolt line reconnections into the new Kuahua substation

²Docket No. 03-0036, Decision and Order No. 20473, filed on October 1, 2003, as clarified by Order No. 21463, filed on November 17, 2004. The Parties in Docket No. 03-0036 were HECO and the Consumer Advocate.

below the surface of the ground, pursuant to HRS § 269-27.6(a).³ "One such condition required the Parties to submit for the commission's review and approval a stipulated filing addressing the concerns raised in the docket regarding HECO's policies on underground lines and requiring contributions, pursuant to the parameters set forth in the decision and order."⁴

Subsequently, on May 16, 2006, in Docket No. 03-0260, the commission approved the policies and guidelines agreed-upon between HECO and the Consumer Advocate, subject to certain amendments made by the commission.⁵ In particular, the commission approved: (1) HECO's Policy on Underground Lines, dated March 2006, as amended by the commission;⁶ (2) HECO's Cost Contribution for Placing Overhead Distribution Lines Underground/Guideline Summary, dated March 2006; and (3) HECO's Dedicated and System Substation Guideline, dated March 2006. As noted by the commission, "[t]he 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. The third

³Docket No. 03-0260, Decision and Order No. 21003, filed on May 16, 2006.

⁴Docket No. 03-0260, Order No. 22467, filed on May 16, 2006, at 2; see also Decision and Order No. 21003, Ordering Paragraph No. 4, at 22-23. The parties in Docket No. 03-0260 were HECO and the Consumer Advocate.

⁵Docket No. 03-0260, Order No. 22467, filed on May 16, 2006.

⁶By letter dated May 24, 2006, filed in Docket No. 03-0260, HECO submitted its Policy on Underground Lines, dated May 2006, which incorporates the commission's amendments.

document applies to projects involving the construction of new system substations or new dedicated substations."⁷

Since the commission's approval of HECO's relevant policies and guidelines in mid-2006, the commission has approved a number of project-specific requests to waive the electric utility's Rule 13 for the purpose of enabling HECO to share in the costs of certain overhead to underground electrical line conversion projects.⁸

B.

Application

On September 3, 2008, HECO filed its application requesting the commission's approval for a waiver of Rule 13 to allow HECO to contribute approximately \$50,832 for the Project.⁹ HECO filed its request pursuant to its Tariff Sheet No. 1, Decision and Order No. 20473 in Docket No. 03-0036, and Order No. 22467 in Docket No. 03-0260.

⁷Docket No. 03-0260, Order No. 22467, at 3.

⁸See, e.g., In re Hawaiian Elec. Co., Inc., Docket No. 2009-0042, Decision and Order, filed on August 7, 2009 (Ala Moana Boulevard Underground Conversion from Queen Street to Cooke Street); In re Hawaiian Elec. Co., Inc., Docket No. 2008-0003, Decision and Order, filed on September 11, 2008 (North South Road, Phase 1B Project); In re Hawaiian Elec. Co., Inc., Docket No. 2008-0010 ("Docket No. 2008-0010"), Decision and Order No. 24241, filed on May 22, 2008 (Black Point Underground Conversion - 4051 and 4057 Black Point Road); and In re Hawaiian Elec. Co., Inc., Docket No. 2007-0332 ("Docket No. 2007-0332"), Decision and Order No. 24240, filed on May 22, 2008 (Keaahala CPR Underground Conversion Project - 45-598 Keaahala Road).

⁹Application; Verification; Attachments 1 -3; and Certificate of Service, filed on September 3, 2008 (collectively, "Application").

Project Description and Schedule

The Project involves the conversion of an existing secondary overhead electrical line, including service connections, which feeds four or more homes located on Diamond Head Road, to underground facilities. In particular, a total of six property owners are participating in the underground conversion: lot owners 3705, 3707, 3703B, 3711, 3713, and 3715. While HECO does not currently provide electric service to two of these properties, lots 3707 and 3713, these two property owners are nonetheless participating in the Project. In addition, while HECO's electrical service to two other properties, lots 3705 and 3711, will continue via overhead electrical lines, these two property owners are likewise participating in the Project.

The Project's scope of work includes: (1) for the overhead work, the removal of one 40' fiberglass pole, two 30' poles, and associated conductors; and (2) for the underground work, the installation of one 40' fiberglass pole, one pad mounted transformer, two handholes, and associated ducts, risers, and cables.

HECO states that: (1) the Project was initiated at the request of one of the homeowners; and (2) due to the homeowners' "tight" project schedule, the construction of HECO's facilities commenced in July 2008 and the projected completion date is December 2008.

Cost Sharing

The total cost of the Project is approximately \$100,832, including change-over and removal costs. HECO proposes to share in the cost of the Project by contributing approximately \$50,832 in electrical work, with the homeowners providing in-kind contributions-in-aid-of-construction of approximately \$50,000, consisting of civil and structural infrastructure work. HECO states that in order to expedite the Project's scope of work, the homeowners have paid in full the cost for the underground conversion. Thus, in the event that HECO receives the commission's approval for the Project, HECO will reimburse the homeowners the \$50,832 amount.

HECO states that the proposed cost sharing for the Project is consistent with its Policy on Underground Lines, dated May 2006 ("Policy on Underground Lines"), and its corresponding Cost Contribution for Placing Overhead Distribution Lines Underground/Guideline Summary, dated March 2006 ("Cost Contribution Summary"), which the commission approved in Docket No. 03-0260. Moreover, it "has proactively addressed the Legislature's clearly expressed concern that the community's desire for underground utility facilities be facilitated, if and to the extent that the undergrounding can be done at a reasonable cost. The proposed cost sharing is a reasonable solution for the conversion of the existing overhead lines to underground facilities."¹⁰

¹⁰Application, at 7.

B.

Consumer Advocate's Position

In its Statement of Position filed on September 11, 2009, the Consumer Advocate states that it does not object to the commission's approval of HECO's Application, noting that: (1) the commission previously approved HECO's Policy on Underground Lines and corresponding Cost Contribution Summary in Docket No. 03-0260; (2) the scope of the Project appears to be within the scope of the requirements governing the "project cluster" criteria set forth in HECO's Cost Contribution Summary, otherwise known as Criterion No. 3; and (3) the related Project-costs to be "borne by HECO are relatively minimal in comparison with [its] current plant-in-service balance."¹¹

That said, the Consumer Advocate notes that in at least two prior commission dockets (Dockets No. 2007-0332 and No. 2008-0010) it expressed its: (1) concerns that the language utilized in Criterion No. 3 may be unclear and have unintended results; and (2) intent to work with HECO in the future to revise Criterion No. 3 in order to address the Consumer Advocate's concerns. Here, as result of its on-going concerns, "the Consumer Advocate notes that it has reached an agreement with [HECO] on the proposed revisions to address its concerns. As such, the Consumer Advocate and HECO are filing its agreement and proposed revisions to both [HECO's] Policy and Summary as Exhibit I for Commission approval in the instant proceeding."¹²

¹¹Consumer Advocate's Statement of Position; and Certificate of Service (collectively, "Statement of Position"), at 5.

C.

HECO's Reply Letter

By letter dated September 18, 2009, HECO informs the Commission that: (1) the Project was completed and energized on July 10, 2008, i.e., nearly five months earlier than the anticipated December 2008 completion date referenced in HECO's Application; and (2) it will not be filing a reply statement of position.

II.

Discussion

A.

Waiver of Rule 13

HECO's Tariff Sheet No. 1 states in relevant part that "[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."

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

[W]hen 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.

HECO's Rule No. 13.D.4.

Any deviation from the cost allocation set forth in Rule 13.D.4 requires the commission's approval. Here, HECO

¹²Consumer Advocate's Statement of Position, at 7-8.

proposes to depart from its Rule 13.D.4 to allow the electric utility to share in the costs to relocate the existing overhead facilities to underground facilities. Specifically, HECO proposes to share in the cost of the conversion, pursuant to its Policy on Underground Lines, which states in relevant part:

HECO will convert existing overhead lines to underground lines . . . [a]s 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 costs, 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.)
. . . .

HECO's Policy on Underground Lines, at 2 (footnotes and text therein omitted); accord HECO's Cost Contribution Summary, at 1. An eligible community project, in turn, includes a "[p]roject for a 'cluster' (4 or more adjacent lots) of customers[.]" HECO's Cost Contribution Summary, at 1, i.e., Criterion No. 3.

HECO reasons that while it does not currently provide electrical service to lots 3707 or 3713, the owners of these two properties are participating in the underground conversion Project; thus, the cluster of four or more adjacent lots pursuant to HECO's Cost Contribution Summary includes lots 3707, 3707B, 3713, and 3715. In response, the Consumer Advocate notes that if the term "customers" in Criterion No. 3 "represents the owners of

the [four] lots, there appears to be at least four landowners."¹³

The Consumer Advocate further notes that in this instance:

. . . there are two additional adjacent homeowners at 3705 and 3711 Diamond Head Road that are not part of the "cluster"¹⁴ but are providing contributions¹⁵ "in order to benefit visually from the proposed undergrounding of the overhead lines" in the project area. To the extent that these two additional homeowners are considered as part of the "cluster," the "cluster" could be presumed to comprise . . . six homeowners and four HECO customers. As a result, the Consumer Advocate recognizes that the instant project appears to be within: (1) the scope of the requirements set forth in Criterion No. 3 as currently written; and (2) the intent of the Policy [is] to allow greater opportunity to convert existing overhead facilities to underground placement. Thus, the Consumer Advocate recommends approval of HECO's request.

Consumer Advocate's Statement of Position, at 7 (footnote 15 and citation therein omitted).

In Docket No. 2007-0322, involving similar factual circumstances over the meaning of the term "customers" in Criterion No. 3, specifically, whether "customers" refers to lots owners or bill-paying customers, the commission, in approving the project-specific waiver of Rule 13, nonetheless agreed with the Consumer Advocate that Criterion No. 3 should be monitored. In approving the waiver, the commission reasoned that HECO's

¹³Consumer Advocate's Statement of Position, at 6 (footnote and text therein omitted).

¹⁴Footnote 13 of the Consumer Advocate's Statement of Position states: "Lots 3705 and 3711 may not be considered as part of the 'cluster' as their electrical service will remain overhead." Consumer Advocate's Statement of Position, at 7 n.13.

¹⁵Footnote 14 of the Consumer Advocate's Statement of Position states: "Page 6 of the application states that lot 3705 is providing an easement for HECO's facilities and lot 3711 is participating in the cash contribution to [HECO]." Consumer Advocate's Statement of Position, at 7 n.14.

contribution to the conversion project was not significant when compared to the electric utility's plant-in-service balance, and that the project was consistent with the intent of HECO's Policy on Underground Lines to convert existing overhead lines to underground facilities.¹⁶

Here, the commission similarly finds that: (1) HECO's contribution to the Project (i.e., \$50,832) is not significant when compared to its overall plant-in-service balance; and (2) the Project is consistent with the intent of HECO's Policy on Underground Lines to convert existing overhead lines to underground facilities. Moreover, in this specific instance, it is clear that six property owners who own their respective properties on the same road are participating in the underground conversion "in order to benefit visually from the proposed undergrounding of the overhead electric lines."¹⁷ The commission, under these factual circumstances, approves HECO's request for a project-specific waiver of Rule 13 to contribute \$50,832 for the Project.

¹⁶Docket No. 2007-0322, Decision and Order No. 24240. Based on the same rationale, the commission, in Docket No. 2008-0010, likewise approved the project-specific waiver of Rule 13 in factual circumstances involving the interpretation of the term "cluster" in Criterion No. 3. Docket No. 2008-0010, Decision and Order No. 24241.

¹⁷Application, at 6.

B.

HECO's Tariff Rules

According to the Consumer Advocate, the Parties request the commission's approval of their agreed-upon proposed revisions to HECO's policies and guidelines, as reflected in Exhibit I attached the Consumer Advocate's Statement of Position. Exhibit I incorporates the following documents: (1) a joint letter agreement between HECO and the Consumer Advocate, dated September 11, 2009; (2) the Parties' proposed revisions to HECO's Policy on Underground Lines and Cost Contribution Summary, in black-line format; and (2) HECO's Policy on Underground Lines, dated July 2009, and its Cost Contribution Summary, dated August 2009, with the Parties' proposed revisions incorporated therein.

Subsequently, HECO, in its response to PUC-IR-101, filed on November 9, 2009, notes: (1) its willingness to incorporate its Policy on Underground Lines and Dedicated and System Station Guideline in its tariff rules, "if that is desired by the Commission[;]" and (2) that "the Cost Contribution Summary is meant to be used as a handout to [HECO's] customers to explain the Underground Policy, and is not meant to be a separate policy/guideline document."¹⁸

The commission recognizes that HECO's current policies and guidelines were initially approved by the commission during the second phase of a project-specific capital improvement application, Docket No. 03-0260. Nonetheless, upon reflection,

¹⁸HECO's response to PUC-IR-101, at 1.

the commission believes that it is more appropriate and transparent for HECO to incorporate its policies and guidelines in its tariff rules. The inclusion of HECO's policies and guidelines as part of its tariff rules will circumvent the situation of HECO and the Consumer Advocate amending such policies and guidelines in project-specific waiver proceedings, where oftentimes such as in Docket No. 03-0260 and this proceeding, HECO and the Consumer Advocate are the only parties to the proceeding and any interested persons, as non-parties, have no viable opportunity to review and comment on such proposals. Accordingly, by January 8, 2010, HECO shall file a separate, docketed application for approval of its tariff rules which incorporate its Policy on Underground Lines, Cost Contribution Summary, and Dedicated and System Substation Guideline.¹⁹

In the commission's view, such an application will provide interested persons, if any, with the opportunity to timely file motions to intervene or participate. In effect, the underground conversion of overhead electrical lines and the cost arrangement thereto represents a matter of significant public interest.

Given the commission's instructions to HECO herein, the commission takes no action on the Parties' request to approve

¹⁹Contrary to HECO's position, HECO's forthcoming application shall also include the Cost Contribution Summary as part of its tariff rules. The Cost Contribution Summary includes the eligibility criteria a project must meet in order to qualify for the underground cost sharing arrangement with HECO. It is this eligibility criteria the Parties seek to clarify and amend by way of the Consumer Advocate's Statement of Position.

their agreed-upon proposed revisions to HECO's current policies and guidelines governing the underground conversion of overhead electric lines and the cost sharing arrangements thereto.

III.

Orders

THE COMMISSION ORDERS:

1. HECO's request for a project-specific waiver of its Tariff Rule 13 to allow HECO to contribute approximately \$50,832 for the 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. Given HECO's updated representation that the Project was completed in July 2008, HECO shall file a final cost report with the commission and serve two copies of the same on the Consumer Advocate by December 8, 2009.

3. By January 8, 2010, HECO shall file a separate, docketed application for approval of its tariff rules which incorporate its Policy on Underground Lines, Cost Contribution Summary, and Dedicated and System Substation Guideline.

4. HECO shall conform to the commission's applicable orders set forth above. Failure to adhere to the commission's orders may 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 NOV 13 2009.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Sole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

2008-0175.cp

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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