

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Expedited Approval to Sell)
Materials to University of Hawaii -)
Manoa.)
_____)

DOCKET NO. 04-0335

INTERIM ORDER NO. 21470

Filed Nov. 19, 2004
At 3 o'clock P..M.

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

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.
fo- *Karen Higashi*

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OF THE STATE OF HAWAII

In the Matter of the Application of))
HAWAIIAN ELECTRIC COMPANY, INC.)) Docket No. 04-0335
For Expedited Approval to Sell)) Interim Order No. 21470
Materials to University of Hawaii -))
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INTERIM ORDER

I.

Expedited Request for Interim Approval

HAWAIIAN ELECTRIC COMPANY, INC. ("HECO") seeks expedited interim approval to sell materials ("Proposed Sale of Materials") to the University of Hawaii - Manoa ("University") to support its efforts to provide power to certain buildings on campus.¹ In support of its expedited request, HECO represents:

1. The University's electrical distribution system on the campus "was damaged during the flooding on October 30, 2004, and certain buildings still do not have electrical service."² HECO Letter at 1 (footnote in original).

¹See HECO's letter, dated and filed on November 18, 2004 ("HECO Letter").

²HECO provides service to the University at the primary service level. The University owns, operates and maintains the distribution system on the campus.

2. The University requested materials from HECO in order to provide service from several generators acquired by the University to provide electricity to several facilities.³ *Id.*

3. HECO has the requested materials available, the materials cannot be obtained from local suppliers, and the materials will take approximately four (4) months to obtain from the mainland. *Id.*

4. "HECO has sufficient inventory of the requested items to provide reliable service on its system." *Id.*

5. "Providing the materials is in the public interest of assisting an educational facility to provide needed electrical service in this emergency situation." *Id.*

6. HECO will submit a formal application if it is required. It makes this request "via letter due to the expedited nature of this request." *Id.*

HECO filed a copy of its Letter with the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate").⁴

³See Attachment A to HECO's Letter for a list of the materials and their costs (which total approximately \$19,840).

⁴After a review of HECO's Letter, the Consumer Advocate stated verbally to the commission that it does not object to HECO's request, but reserved for itself the right to state its position with respect to the substance of HECO's formal application on this matter.

II.

Discussion

Hawaii Revised Statutes ("HRS") § 269-19 provides that a public utility is prohibited from, among other things, selling, leasing, assigning, mortgaging, encumbering, or otherwise disposing of its property that is necessary or useful in the performance of its duties in the public, without first obtaining an order from the commission authorizing the public utility so to do. HRS § 269-19 further states that "[e]very such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission shall be void." The contents of an application of a public utility for such an order must satisfy the requirements of Hawaii Administrative Rules ("HAR") § 6-61-105. However, the commission's rules "shall be liberally construed to secure the just, speedy, and inexpensive determination of every proceeding." HAR § 6-61-1.

Paragraph thirteen (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 ("Order No. 7256"), requires prior commission approval of transfers of property that is or was in HECO's rate base. Paragraph thirteen (13) of Order No. 7256 states:

"13. The Utility Corporation shall not transfer any of its property which is or was in the rate base nor assume any liabilities of Industries, directly or indirectly, without the prior approval of the [c]ommission. The determination of the transfer value and the accounting and ratemaking treatment thereof shall be determined by the [c]ommission at the time of approval of such transfer."

In light of HECO's representations that the immediate transfer of the materials is necessary to provide the University, an educational facility, with electrical service in this emergency situation, we find HECO's request for expedited interim approval of the Proposed Sale of Materials to be reasonable and in the public interest. We further find that HECO's recommended accounting treatment of the Proposed Sale of Materials is reasonable. Thus, we conclude that HECO's November 18, 2004 request for expedited approval to immediately sell materials to the University should be approved, provided that HECO submits a formal application in accordance with the applicable laws, rules, and procedures relating to the above-referenced transaction within twenty (20) days from the date of this interim order.

Such approval is further conditioned upon HECO's compliance with the applicable laws, rules and regulations relating to the above-referenced transaction and any other terms, conditions, and requirements imposed subsequent to the commission's and the Consumer Advocate's respective reviews of the merits of the formal application filed in this docket.

III.

Order

THE COMMISSION ORDERS that HECO's November 18, 2004 request for expedited approval to immediately sell materials to the University is approved, subject to the following conditions:


1. HECO shall submit a formal application in accordance with the applicable laws, rules, and procedures relating to the

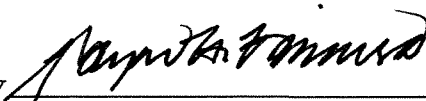
above-referenced transaction within twenty (20) days from the date of this interim order and

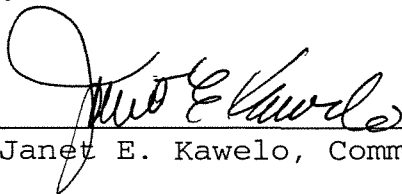
2. The commission and the Consumer Advocate reserve their respective rights to review the merits of the above-referenced transaction relating to the Proposed Sale of Materials to the University subsequent to the submission of HECO's formal application in accordance with the applicable laws, rules and regulations.

DONE at Honolulu, Hawaii November 19, 2004.

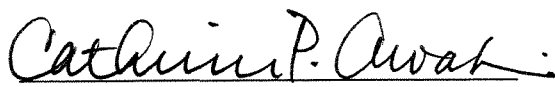
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

04-0335.eh

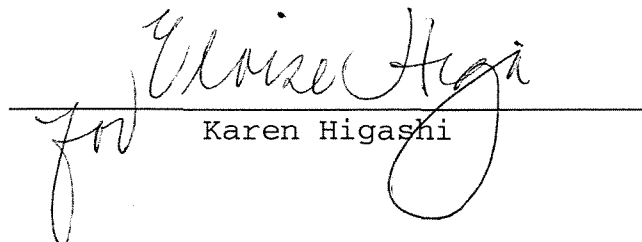
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Interim Order No. 21470 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
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Karen Higashi

DATED: November 19, 2004