

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of) DOCKET NO. 03-0417
)
HAWAIIAN ELECTRIC COMPANY, INC.)
)
for approval to commit funds in)
excess of \$500,000 for Item Y48500,)
East Oahu Transmission Project.)
_____)

PUBLIC UTILITIES
COMMISSION

JAN 7 3 51 PM '04

FILED

MOTION TO INTERVENE OF
CAROL FUKUNAGA, SCOTT K. SAIKI, AND ANN KOBAYASHI

CERTIFICATE OF SERVICE

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2. Movants: Movants' name and business address and/or residence address

are as follows:

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3. Nature Of Proceeding. Hawaiian Electric Company, Inc. ("HECO") requests Commission approval to commit funds in excess of \$500,000 (currently estimated at \$55,424,000) for Item Y48500, East Oahu Transmission Project ("the Project"), in accordance with the provisions of Paragraph 2.3(g)(2) of General Order No. 7. HECO proposes to implement the Project in two independent phases. The first phase ("Phase 1") includes: (1) the installation of six underground 46kV lines in the Ala Moana, McCully, Moiliili, and Kapahulu areas, (2) a 138kV/46kV transformer installation at the existing Kamoku Substation with associated protective relaying, and (3) modifications of various existing distribution substations in the Honolulu area. The second phase ("Phase 2") includes: (1) the installation of three

underground 46kV lines in the Kakaako, Makiki, and McCully areas, and (2) a 138/46kV transformer installation at the existing Archer Substation with associated protective relaying.

4. Compliance With Applicable Rules. Section 6-61-55 of the PUC Rules requires that the Movants satisfy a nine (9) point criteria for granting the requested intervention. Paragraphs 5 through 13, infra, set forth those nine points, in the sequence suggested in Section 6-61-55, PUC Rules.

5. Nature Of Movants' Right To Participate. Movants are elected public officials who are residents and/or represent constituents in the affected districts and/or believe the issues raised in these proceedings require the participation and input by these communities through their elected officials. Movants are, as identified above, for most part the elected officials who represent the communities in this area and reside therein. A party is defined herein by H.R.S. §91-1(3) which provides the Commission with the right to admit movants as parties to this proceeding. Movants are interested in and may be adversely affected by the decision of this Commission. This proceeding will determine, among other things, the appropriate alignment of the transmission lines, health effects (including EMF), aesthetic considerations, safety, depreciation of property values, public welfare in general and costs. In administrative hearings, as anticipated under H.R.S. Chapter 91, the due process rights of the public are of paramount concern. This proceeding is, by definition, a contested case. Movants believe that in order for the Commission to be fully apprised of the objections to the HECO proposal, they must be allowed to intervene. But for the actual participation of Movants' the Commission may be denied the benefit of a contested case, and the benefits derived therefrom, e.g. cross-examination of witnesses, challenges to factual assumptions, etc.

6. Extent Of Movants' Interest In The Matter. The Project will, among other things, cause the 46kV lines to run beside one school and affect residential communities.

7. Effect Of Pending Order On Movants. The pending order, if issued, will have severe and adverse effects upon Movants as stated in paragraph 5, supra.

8. Other Means Available Wherein Applicant May Protect His Interest. H.R.S. §269-27.5, requires public hearings when high voltage transmission lines are proposed to run through residential areas. However, this provision does not afford Movants the right to cross-examine, present testimony and submit arguments. Arguably, the Commission may believe that the Division of Consumer Advocacy as created under H.R.S. §269-51, et seq., will represent the interest of the Movants, but the Consumer Advocate has not yet solicited or investigated how the consumers truly assess this issue and it is unclear whether the Consumer Advocate will adequately represent Consumers' interests.

Movants seek intervenor status in the exercise of their due process rights.

9. Other Parties Do Not Represent Movants' Interests. To Movants' knowledge, HECO and the Consumer Advocate remain as parties to this proceeding. Their interests are distinguishable from Movants' interests.

HECO's interests are obvious. Movants represent the interests of long-term residents and are in fact vested with the public's trust to act in the community interest. For the issues that this Commission will face, Movants conclude that their interests are unique and can only be of great assistance to the decision making process.

It was Movants' position that they were hopeful the Consumer Advocate could represent their interests; however, it is not evident that the Consumer Advocate will do so. There will be no contested case without Movants' participation on critical public interest issues.

10. Movants' Participation Will Assist The Development Of A Sound Evidentiary Record. The Commission is charged with its duties and responsibilities in H.R.S. Chapter 269. Movants will be able to assist in the development of a record upon which this Commission can confidently rely. There are significant public policy issues to be considered, i.e. i.e., health and safety.

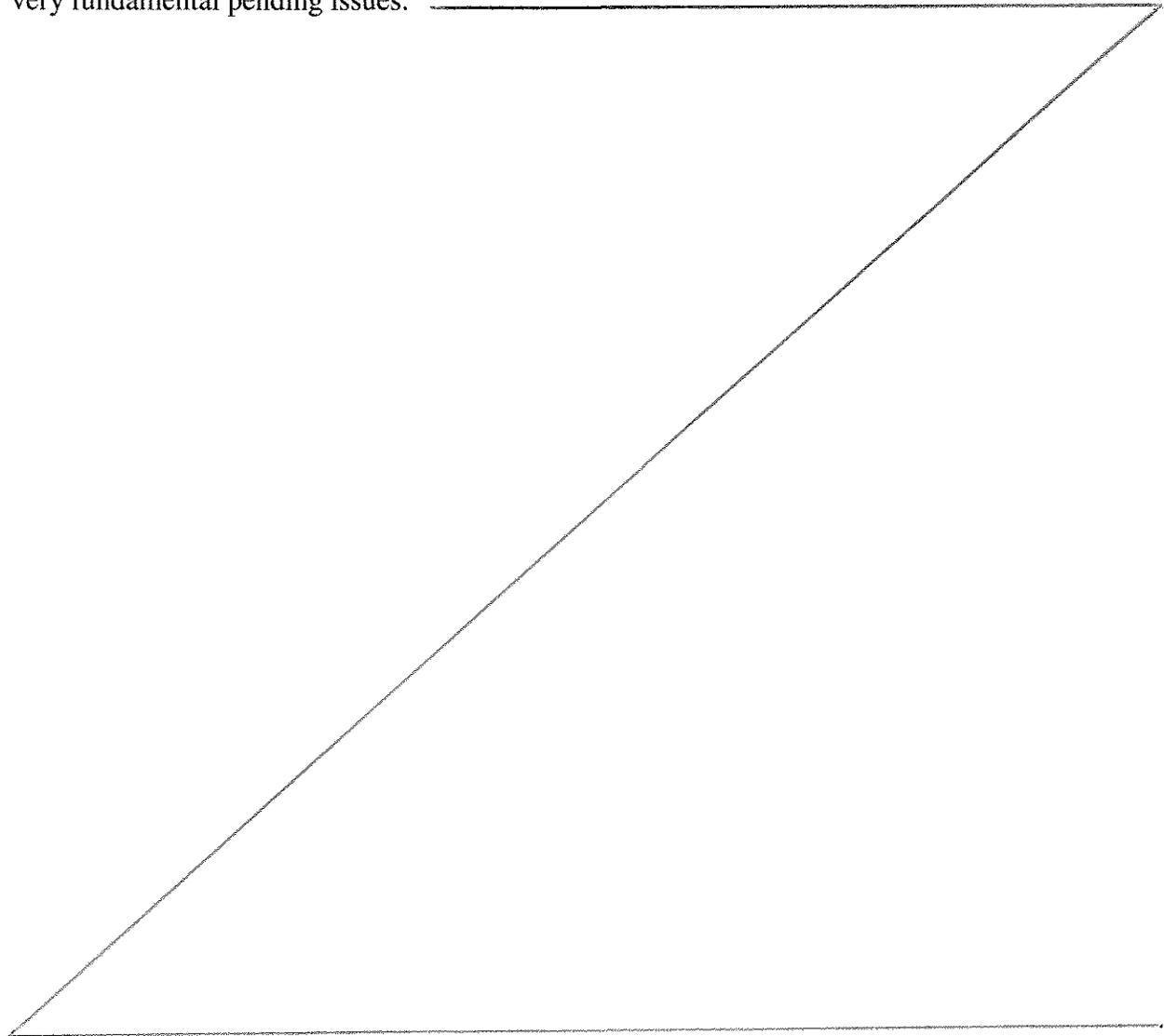
11. Movants' Participation Will Neither Unduly Broaden The Issues Nor Delay This Proceeding. Movants' participation will broaden the issues and not delay the proceeding. Movants will work within time deadlines set by the Commission. Movants seek by this Motion to have full participation rights as Intervenors.

12. Movants' Interests Differ From Those Of The General Public. Movants believe that the interest of the general public is perceived as the provision of a reliable energy source at an inexpensive cost. Movants' interest differ from those of the general public in that the "costs" to be incurred include but also transcend any towers, wires, transformers and/or an underground line. The costs to Movants are the "price" they will pay to bear the burden of having the overhead and/or underground lines; the uncertainty of knowing whether a child is safe; etc. Movants contend that they and others of East Oahu will carry an inequitable share of the "local costs" to ensure a reliable energy source for the rest of the island. Their concerns are fundamental to their quality of life.

13. Movants' Position To The Relief Sought. HECO alleges to have spent a substantial period of time evaluating various alternative routes and methods of construction. HECO addresses the specific issue of health and safety pact by merely stating that there are no definitive studies. Yet, there will be one school with a captured audience of children for six-plus

hours per day under these lines. It is not clear whether the undergrounding of lines (absent adequate encasement of lines) will protect children.

Movants oppose the application of HECO and believe that their collective participation will present this Commission with added insight into what would otherwise be an uncontested matter. Movants urge this Commission to accept their intervention to address the very fundamental pending issues.



WHEREFORE, Movants respectfully request that their Motion to Intervene be granted, and that they be made a party to this proceeding, and receive all parties pleadings in this proceeding.

DATED: Honolulu, Hawaii, January 7, 2004.



CAROL FUKUNAGA
Movant



SCOTT K. SAIKI
Movant



ANN KOBAYASHI
Movant

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have this date served two copies of the foregoing Motion to Intervene, together with this Certificate of Service, by mail, postage prepaid, to the following and at the following addresses:

William A. Bonnet
Vice President
Government and Community Affairs
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Division of Consumer Advocacy
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 326
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, January 7, 2004.

Scott K. Sasaki

SCOTT K. SAIKI
Movant