

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN ELECTRIC COMPANY, INC.)
For Approval to Commit Funds in)
Excess of \$500,000 for Item Y48500,)
East Oahu Transmission Project.)
_____)

DOCKET NO. 03-0417

ORDER NO. 20861

Filed March 23, 2004
At 11:00 o'clock A.M.

Karen Sigel.
Chief Clerk of the Commission

"Movants") timely filed their respective motions to intervene in this docket. On January 29, 2004, the commission held a hearing on PCC's Motion to Intervene in response to PCC's request, pursuant to HAR § 6-61-41. On January 14, 2004, HECO filed memoranda in response to HOP's, Malama's, and KN's respective motions to intervene, and on January 16, 2004, HECO filed its memorandum in response to PCC's motion to intervene, stating that it does not oppose the Movants' requests to intervene, provided that each is not permitted to expand the scope of the proceeding or delay the proceeding, and is required to comply with the Rules of Practice and Procedure Before the Public Utilities Commission (HAR, Title 6, Chapter 61) ("commission's Rules of Practice and Procedure").

II.

Discussion

HAR § 6-61-55, which governs intervention in our proceedings requires, among other things, the movant to state the facts and reasons for the proposed intervention, and its position and interest thereto. Furthermore, HAR § 6-61-55(d) states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." HAR § 6-61-56(a) provides the commission with the discretion to permit participation in a docket without intervention. Participation means that the person or entity in whose behalf an appearance is entered is "not a

party to the proceeding and may participate in the proceeding only to the degree ordered by the commission."

A.

PCC

PCC, a non-profit Hawaii corporation, was established in 1952 and is comprised of members from organizations in Palolo Valley. PCC states that its interest in the pending matter is of "long standing," having "led the power lines fight against HECO in the late [19]70's."

PCC's concern is that some of HECO's "proposed alternatives would go underground through Palolo or overhead in viewplanes seen from Palolo." The alternatives described by PCC are not included within the application filed by HECO in the instant docket. Instead, they appear to reference HECO's previous contested case hearing before the Board of Land and Natural Resources ("BLNR") for a Conservation District Use Permit to install a new 138,000 volt transmission line within existing easements in the Conservation District atop Waahila Ridge ("Waahila Ridge Contested Case"). PCC does not represent the residents that will be directly affected by the proposed project, as described by HECO in its application in this docket.

While the commission does not find that PCC's interests are reasonably pertinent to the issues to be determined in this docket, it nonetheless believes that PCC's involvement in the Waahila Ridge Contested Case may provide it with relevant information that may be helpful in completing a thorough analysis

of this docket. As a result, we conclude that PCC should be allowed participant status in this docket, pursuant to HAR § 6-61-56.

B.

HOP

HOP is an unincorporated community group of Palolo residents. In its motion to intervene, HOP failed to state how its interests differ from those of other groups, such as PCC, who represent Palolo Valley. Further, as an unincorporated group, it is unclear who will represent it in this proceeding, since HOP's motion to intervene failed to address this matter. It asserts that it "may represent members who are or will be adjacent property owners of possible alternatives" to the proposed project as detailed in application filed in this docket. Here again, it appears that HOP is referring to the Waahila Ridge Contested Case. HOP does not represent the residents that will be directly affected by the proposed project, as described by HECO in its application in this docket.

While the commission does not find that HOP's interests are reasonably pertinent to the issues to be determined in this docket, it nonetheless believes that HOP's involvement with the Waahila Ridge Contested Case may provide it with relevant information that may be helpful in completing a thorough analysis of this docket. As a result, we conclude that HOP should be allowed participant status in this docket, pursuant to HAR § 6-61-56, provided that HOP provides the commission with written

confirmation within twenty (20) days of the date of this order of the person who will be HOP's designated representative in this proceeding, pursuant to HAR § 6-61-12.¹

C.

Malama

Malama is a non-profit Hawaii corporation formed in 1992 for the purpose of "preserving, protecting, and enhancing the special qualities of historic Manoa Valley." It has more than 3,700 members, most of who live in Manoa and its surrounding environs. Malama developed an active interest in the Waahila Ridge Contested Case. Malama does not represent the residents that will be directly affected by the proposed project, as described by HECO in its application in this docket.

While the commission does not find that Malama's interests are reasonably pertinent to the issues to be determined in this docket, it nonetheless believes that Malama's involvement with the Waahila Ridge Contested Case may provide it with relevant information that may be helpful in completing a thorough analysis of this docket. As a result, we conclude that Malama

¹HOP, as an unincorporated community group, constitutes a person who may participate in this docket, since "person" is defined in the commission's Rules of Practice and Procedure as "individuals, partnerships, corporations, associations, joint stock companies, public trusts, organized groups of persons, *whether incorporated or not...*" (Emphasis added). However, HAR § 6-61-12(a) states that "any party to a proceeding before the commission may appear in person or may be represented by a partner or by an officer or authorized employee of a corporation, trust, or association." HAR § 6-61-12(b) allows representation by an attorney-at-law or a law student intern practicing law pursuant to Rule 7 of the Supreme Court of the State.

should be allowed participant status in this docket, pursuant to HAR § 6-61-56.

D.

KN

KN is a Hawaii non-profit corporation that represents property owners on record, residents, and registered voters of the district of Kapahulu. KN's motion to intervene failed to address the nine criteria specified in HAR § 6-61-55(b). Notwithstanding such failings, the commission believes that KN may have relevant information that may be helpful in completing a thorough analysis of this docket. The commission also notes that KN represents the only set of residents that will be directly affected by the proposed project, as outlined in the application filed in this docket. Accordingly, while the commission does not find that KN's interests are reasonably pertinent to the issues to be determined in this docket, it nonetheless concludes that KN should be allowed participant status in this docket, pursuant to HAR § 6-61-56.

The participants' (PCC, HOP, Malama, and KN) involvement in this proceeding shall be limited to: (1) receipt of copies of all correspondence, filings, and briefs relating to this docket; and (2) a written statement of position, which shall be due on the date established in either the stipulated procedural order or the commission's procedural order, and which shall be limited to a total of 25 typewritten pages (not including exhibits).

PCC, HOP, Malama, and KN, as participants, are admonished that their participation in this docket will be limited to only the issues determined and/or authorized by the commission. The commission will preclude any efforts that will unreasonably broaden these issues, and unduly delay the proceeding. The commission will reconsider any of the participants' participation in this proceeding if, at any time during this proceeding, the commission determines that any of the participants' efforts unreasonably broaden the pertinent issues in this docket or unduly delay the proceeding.

III.

Orders

THE COMMISSION ORDERS:

1. PCC's motion to intervene is denied. Instead, PCC is granted participant status, subject to the limitations set forth in this order.

2. HOP's motion to intervene is denied. Instead, HOP is granted participant status, subject to the limitations set forth in this order, and provided that HOP provides the commission with written confirmation, within twenty (20) days of this order, of the person who will be HOP's designated representative in this proceeding, pursuant to HAR § 6-61-12.

3. Malama's motion to intervene is denied. Instead, Malama is granted participant status, subject to the limitations set forth in this order.

4. KN's motion to intervene is denied. Instead, KN is granted participant status, subject to the limitations set forth in this order.

5. HECO and the Consumer Advocate shall meet informally with persons granted intervenor or participant status in this docket to determine the issues, procedures, and schedule with respect to this proceeding, to be set forth in a stipulated prehearing order. The stipulated prehearing order shall be submitted for commission approval within thirty (30) days from the date of this order. If the parties are unable to stipulate to such an order, each party shall submit its own proposed prehearing order for the commission's consideration within thirty (30) days from the date of this order.

DONE at Honolulu, Hawaii this 23rd day of March, 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

03-0417.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20861 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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Certificate of Service

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Karen Higashi

DATED: March 23, 2004