Testimony to
The Board of Land and Natural Resources

Thursday, December 7, 2023, 9:00 AM

Agenda Item D-1, Decommissioning Bond for Hawaii Gas

Chair Dawn N.S. Chang and Members of the Board of Land and Natural Resources:

Regarding Agenda Item D-1, Decommissioning Bond for The Gas Company, LLC dba Hawaii Gas (Hawaii Gas) Storage Site and Tank Farm, Operating Yard, Related Activities and Appurtenant Pipelines to Said Tanks, Nawiliwili, Lihue, Kauai Tax Map Key: (4) 3-2-003:030.

Hawaii Gas opposes the proposed recommendation under Agenda Item D-1**,** which amends Prior Board Action of August 25, 2023, Item D-1 (approving the direct lease extension for an additional 55-year term); and amends Prior Board Action of July 28, 2023, Item D-4 (approving an additional one-year holdover of the existing lease). The current Agenda Item D-1 includes a proposal for Hawaii Gas to obtain a decommissioning bond (also referred to as a removal bond) for the removal of all trade fixtures and other equipment on the property upon termination of the lease.

BACKGROUND REGARDING HAWAII GAS

Since 1904, Hawaii Gas has been the only franchised gas utility in the State providing gas service throughout the major islands of Hawaii. Hawaii Gas distributes a blend of gas that includes synthetic natural gas, renewable natural gas, hydrogen, and propane (or liquefied petroleum gas or LPG). Hawaii Gas engages in both regulated (utility) and non-regulated gas operations, serving nearly 70,000 commercial, industrial, and residential customers throughout the State. On the Island of Kauai, where the subject property is located, Hawaii Gas has approximately 9,000 customers.

The Kauai Division's operations consist of the purchase, transportation, storage, and distribution of propane to utility holder tanks that provide gas service via underground gas pipelines, and to individual propane tank and bottle customers.

Propane is presently the primary fuel used for Hawaii Gas' operations and customers on Kauai. Hawaii Gas currently purchases propane from a foreign supplier and relies on marine and barge deliveries to Nawiliwili Harbor to supply its customers. The subject tank farm has been in operation since 1968 and is the Island's only major propane storage facility. More information about the tank farm is provided at **Attachment 1**.

PROPOSED DECOMMISSIONING BOND

Hawaii Gas is presenting comments to express concern regarding the proposed decommissioning for Hawaii Gas' propane storage site and tank farm in Nawiliwili Harbor.

At its meeting on July 28, 2023 (Item D-4), the Board of Land and Natural Resources (Board) approved the issuance of a 55-year direct lease to Hawaii Gas for the subject facility, and at its meeting on August 25, 2023 (Item D-1), the Board recommended that the Department of Land and Natural Resources (DLNR), Land Division, research what a decommissioning bond would cost for the removal of equipment on the property and to return to the Board at a later date with a recommendation on including a removal bond requirement in Hawaii Gas' new lease.

Under Agenda Item D-1, the Land Division staff is recommending that Hawaii Gas be required to post a removal bond in the initial amount of $810,000 for the first year of the lease, with an annual increase by 5% (compounded) for the entire 55-year term. This removal bond would be in addition to the required lease performance bond that Hawaii Gas already pays annually under the existing lease.

Hawaii Gas opposes the proposed decommissioning bond for the following reasons:

1) *Decommissioning Bonds Are Typically Not Required for This Type of Facility*

Hawaii Gas understands that a decommissioning bond is a relatively new development for State leases. However, it is not appropriate here. Hawaii Gas contacted its bond broker regarding the proposed bond and was advised that while decommissioning bonds are often required for large facilities with material safety risks and environmental impacts like landfills and quarries, it is unusual to require a decommissioning bond for a facility with minimal environmental impacts like a propane tank farm.

As the Board is probably aware, liquid propane is a gas at ambient temperature and pressure. This means that in the unlikely event there were an accidental release of propane, it would disperse into the atmosphere and not cause any contamination to soil, groundwater, or subsurface water, requiring costly cleanup. Further, the propane storage tanks are designed to be removed from their concrete footings and any underground piping can either be removed or abandoned in place in accordance with industry best practice. For these reasons, Hawaii Gas does not believe that a costly decommissioning bond, paid for by customers on Kauai, is reasonable or warranted given the minimal risk of a costly cleanup at the end of the lease.

2) *Alternative Mechanisms Exist to Address Potential Financial Viability Concerns*

The Hawaii Public Utilities Commission (HPUC) regulates not only Hawaii Gas' operations but also its financial viability. The HPUC has regulatory authority to ensure all capital projects, new debt, and customer rates and charges are reasonable and in the public interest. This regulatory oversight ensures that Hawaii Gas remains financially viable and does not take extraordinary risk that could jeopardize the viability of the business. This means that the risk that Hawaii Gas could become financially insolvent is significantly lower compared to unregulated businesses. Hawaii Gas has been in business for over 120 years and plans to continue to innovate and provide clean energy solutions, including renewable propane, hydrogen or alternate clean energy fuels aligned with the State's clean energy goals, to the community on Kauai for the next 100 years. Notwithstanding the stability of the business, there are less restrictive and less costly alternatives to address the risk that Hawaii Gas may go out of business and the State may be responsible for the costs of cleanup.

For example, the lease could include a requirement that if Hawaii is in material default under its debt covenants, that it would be required to notify the DLNR to assess whether a decommissioning bond or other instrument should be obtained. Hawaii Gas recommends that these types of alternative structures be discussed directly with the DLNR as part of the lease negotiations.

3) *The Proposed Decommissioning Bond Would Increase Costs for Kauai Customers*

Kauai businesses and residents rely on propane to meet their energy needs, and the proposed bond will only increase costs for customers who are already facing rising fuel costs and other financial difficulties. During emergencies such as heavy storms, hurricanes, and flooding, Hawaii Gas has been there for the community providing much needed energy supply for heating water, cooking, sanitation, and critical life-support needs, especially during extended power outages. Due to the mobility of propane cylinders, Hawaii Gas employees walked through flooded streams to assist customers in Hanalei during the 2018 Kauai storms. And as part of the ongoing Maui fire recovery, Hawaii Gas is providing much needed propane supplies to residents, hotels, and other temporary shelters on Maui to support displaced residents. In Kauai and throughout the State, Hawaii Gas provides critical energy infrastructure for the State. On Kauai, this facility is the only major propane storage facility providing reliable energy for its customers and critical needs as part of their everyday lives and during emergencies. The facility is also "fuel agnostic" in the sense that it can store renewable fuels such as renewable propane and rDME or other alternatives in the future, which is discussed in more detail in Hawaii Gas' comments included as part of Agenda Item M-5 for the same facility (DOT Harbors).

With an initial bond amount of $810,000 for the first year of the lease with an annual increase by 5% (compounded) for the entire 55-year term, the bond will exponentially increase to over $2 million by Year 20, and to over $11 million by the end of the term. Recent quotes for Hawaii Gas' decommissioning bond are estimated at 2% of the removal cost. *See* the estimated bond cost schedule at **Attachment 2**. With a 5% CPI Compounding Adder, the bond premium also exponentially increases to $237,000 by the end of the term (based on a percentage of the $11 million removal cost by term-end).

The additional cost for a decommissioning bond is prohibitively expensive and is based on assumptions that do not realistically reflect removal costs in the future. The proposed bond would increase propane costs for Kauai customers by approximately $26 per year to each of its 9,000 customers related to the bond alone. This does not include increasing lease rent costs and performance bonds also required over the term of the lease.

The proposed removal bond is a departure from past practice and should not be required for a long-standing and reputable public utility like Hawaii Gas, which is regulated by the HPUC and considered critical public infrastructure in Hawaii. Please reconsider the proposed removal bond for Hawaii Gas as it will have a detrimental impact on businesses and residents on Kauai, who are already facing difficult economic challenges.

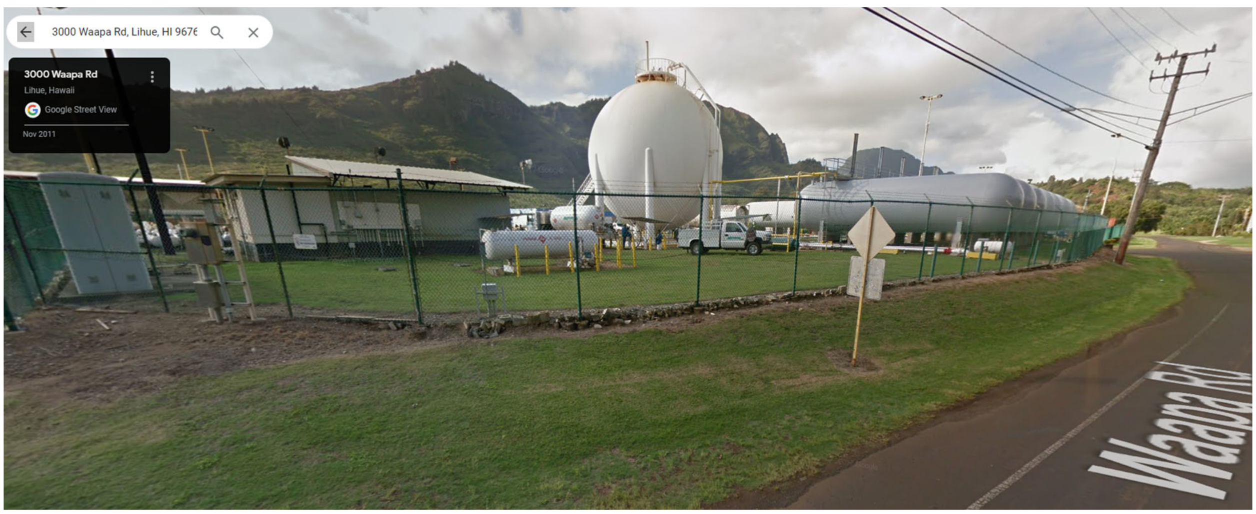
We urge the Board not to move Item D-1 forward.

Thank you for the opportunity to testify.

Attachment 1

Hawaii Gas Propane Storage Site and Tank Farm, Nawiliwili Harbor, Kauai, includes thirteen bullet tanks (30,000 gallons each) and one 250,000 gallon sphere, representing approximately 4-5 weeks of propane supply. This is the only major propane storage facility on Kauai.


13


3000 Waapa Rd, Lihue, HI 9676
3000 Waapa Rd
Lihue, Hawaii
Google Street View
Nov 2011
Waapa Rd

Attachment 2

Recent quotes for Hawaii Gas' decommissioning bond are estimated at 2% of the removal cost. See the estimated bond cost schedule below by year. With a 5% Annual CPI Compounding Adder, the bond cost exponentially increases up to $237,000 by Year 55. Per a brokerage firm in the industry, this arrangement is not typical given the type of facility and minimal environmental cleanup associated with removal, if any.

YEAR	ESTIMATED REMOVAL COST WITH ANNUAL CPI ADDER (5%)	ESTIMATED BOND COST
Year 1	$810,000.00	$16,200.00
Year 2	$850,500.00	$17,010.00
Year 3	$893,025.00	$17,860.50
Year 4	$937,676.00	$18,753.52
Year 5	$984,560.00	$ 19,691.20
Year 6	$1,033,788.00	$ 20,675.76
Year 7	$1,085,477.00	$ 21,709.54
Year 8	$1,139,751.00	$ 22,795.02
Year 9	$1,196,739.00	$ 23,934.78
Year 10	$1,256,576.00	$ 25,131.52
Year 11	$1,319,405.00	$ 26,388.10
Year 12	$1,385,375.00	$27,707.50
Year 13	$1,454,644.00	$29,092.88
Year 14	$1,603,745.00	$ 32,074.90
Year 15	$1,683,932.00	$33,678.64
Year 16	$1,768,128.00	$ 35,362.56
Year 17	$1,856,535.00	$37,130.70
Year 18	$1,949,362.00	$38,987.24
Year 19	$2,046,830.00	$40,936.60
Year 20	$2,149,171.00	$42,983.42
Year 21	$2,256,630.00	$45,132.60
Year 22	$2,369,461.00	$47,389.22
Year 23	$2,487,934.00	$49,758.68
Year 24	$2,612,331.00	$52,246.62
Year 25	$2,742,948.00	$54,858.96
Year 26	$2,880,095.00	$57,601.90
Year 27	$3,024,100.00	$60,482.00
Year 28	$3,175,305.00	$63,506.10
Year 29	$3,334,070.00	$66,681.40
Year 30	$3,500,773.00	$70,015.46

Year 31	$3,675,812.00	$73,516.24
Year 32	$3,859,603.00	$77,192.06
Year 33	$4,052,583.00	$81,051.66
Year 34	$4,255,212.00	$85,104.24
Year 35	$4,467,972.00	$89,359.44
Year 36	$4,691,371.00	$93,827.42
Year 37	$4,925,940.00	$98,518.80
Year 38	$5,172,237.00	$103,444.74
Year 39	$5,430,848.00	$108,616.96
Year 40	$5,702,391.00	$114,047.82
Year 41	$5,987,510.00	$119,750.20
Year 42	$6,286,886.00	$125,737.72
Year 43	$6,601,230.00	$132,024.60
Year 44	$6,931,292.00	$138,625.84
Year 45	$7,277,856.00	$145,557.12
Year 46	$7,641,749.00	$152,834.98
Year 47	$8,023,837.00	$160,476.74
Year 48	$8,425,028.00	$168,500.56
Year 49	$8,846,280.00	$176,925.60
Year 50	$9,288,594.00	$185,771.88
Year 51	$9,753,024.00	$195,060.48
Year 52	$10,240,675.00	$204,813.50
Year 53	$10,752,708.00	$215,054.16
Year 54	$11,290,344.00	$225,806.88
Year 55	$11,854,861.00	$237,097.22