

DIVISION OF CONSUMER ADVOCACY (DCA)

website: www.hawaii.gov/dcca/dca/

e-mail address: consumeradvocate@dcca.hawaii.gov

OVERVIEW

The Division of Consumer Advocacy (Consumer Advocate, DCA, or Division) represents the interests of consumers of utility, and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (PUC), and also the Federal Communications Commission (FCC), and the Federal Surface Transportation Board. DCA reviews requests for rate/tariff changes, capital improvement projects, integrated resource plans, issues regarding competition in the telecommunications and electric industries, certificates to operate, and other applications filed with regulatory bodies by utility and transportation companies. In representing the consumer before the PUC, the DCA must analyze financial and statistical data, prior docketed material, industry standards, and the information provided by the utility and transportation companies to support their applications. After analyzing the information, DCA must submit a written statement of position or testimony explaining the analyst's analysis, findings, and recommendations to the PUC. Oral testimony by DCA analysts, subject to utility company cross examination, is required if an evidentiary hearing before the Commission is required to resolve differences between the utility and DCA.

Composition

The DCA consists of 23 employees, ranging from administrator, secretary, utilities/transportation officer, utilities/transportation specialist, IRP and telecommunications specialists, economist, statisticians, tariff analyst, auditors, engineers, attorneys and clerical support. DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Mailing address is P.O. Box 541, Honolulu, HI 96809; phone number: 586-2800; internet address: www.hawaii.gov/dcca/dca/.

DCA is comprised of the Financial Analysis Branch, the Economics and Pricing Branch, the Engineering Branch, and a Legal Branch.

The *Financial Analysis Branch* examines and analyzes the financial accounts, records and transactions of public utility and transportation companies under differing financial and operational assumptions. This data is utilized in developing projections of companies' operating expenses and rate base for rate-setting purposes. The Branch evaluates the allocation of common costs by analyzing the allocation methodologies to detect discriminatory allocation practices of expenses common to both the regulated and non-regulated operations. The Branch reviews current accounting pronouncements to ensure the compliance in the financial information presented by the regulated companies.

The *Economics and Pricing Branch* reviews and analyzes economic conditions and trends, investor requirements and returns, and other aspects relating to the capital structure of regulated public utilities and transportation companies. In addition, the Branch evaluates and develops recommendations relating to rate schedules, effects of rates, sales levels and other pertinent considerations in establishing rates.

The *Engineering Branch* analyzes and makes recommendations on such technical matters as production capacity and efficiency, depreciation allowances, maintenance cost factors, safety engineering standards, plans for capital improvements, purchased power agreements, and quality of service standards.

The *Legal Branch* provides legal representation before the regulatory agencies. The branch also provides general clerical support by updating and maintaining the Division's docket and general office files, and the electronic data base files, formatting draft documents prepared by the technical staff and attorneys for filing with regulatory agencies and utility companies, maintaining the office library, etc..

DCA has four exempt staff positions—the Public Utilities/Transportation specialist, Integrated Resource Planning (IRP) specialist, Telecommunications specialist and the Education specialist. The Public Utilities/Transportation specialist assists the Public Utilities/Transportation Officer in managing the overall work pertaining to matters filed before the regulatory agencies such as the PUC and FCC. The IRP specialist focuses on filings pertaining to the electric companies and has primary responsibility for reviewing the integrated resource plans and related demand side management programs applications. The telecommunications specialist focuses on filings pertaining to the telecommunications industry.

DCA's Education Specialist is responsible for consumer education and outreach, monitoring consumer complaints filed with regulatory agencies, and attending public hearings, neighborhood board meetings, and various other community events to gain public input about specific issues affecting consumers. The Education Specialist is also responsible for updating and maintaining the Division's web site content.

GOALS AND OBJECTIVES

The Division's goals and objectives can be categorized generally in three broad areas: consumer advocacy, policy advancement, and consumer education and outreach. These areas are not mutually exclusive and often overlap, however, for purposes of describing the Division's goals and how it will reach them, they will be described separately.

Consumer Advocacy

Goal

Ensuring that Hawaii's consumers receive reliable and affordable utility and transportation services – in both the short and long term – is the Division's primary responsibility, and ultimate goal.

Planned Approach/Methods

The Division has and will continue to achieve this goal by advocating for consumers wherever their interests are at stake. Typically, this occurs before the PUC, but may also be before other federal, state or local agencies and legislative bodies.

A majority of the Division's resources will continue to be focused on PUC proceedings. These proceedings often affect the rates and potentially affect the reliability of utility systems and services. The Division's involvement in PUC proceedings will typically involve some or all of the following:

1. review of applications to ensure compliance with regulations;

2. attendance at PUC public hearings;
3. procurement of consultant services for complex cases;
4. conducting discovery;
5. analysis of applications and supporting documents to ensure their accuracy, and the reasonableness of the requests;
6. making recommendations to the PUC on the merits of the applications through statements of position or direct testimony; and
7. providing testimony and being subject to cross-examination in proceedings where evidentiary hearings are necessary.

The Division also will remain flexible and willing to work with applicants and the PUC where the negotiation and settlement of proceedings or particular issues within a proceeding is in the consumers' best interest.

While the PUC proceedings often involve rate issues, the Division also considers, to the extent possible, the long term costs and or benefits of proposals in an effort to determine what will ultimately best serve consumer interests with regard to reliable service and reasonable rates.

Measures

To measure the Division's performance in advocating for consumer interests the Division will continue to track various categories of information. Included are consumer savings due to its participation in PUC proceedings, the percentage of PUC decisions that agree with its recommendations, the number of service quality investigations it participates in, and the numbers of various types of PUC filings reviewed by the Division.

While these measures can be ascertained by direct measurement, the Division is also very active in many matters where the outcomes have significant impacts on utility, communications, and transportation consumers but cannot be directly measured or quantified. Some of these will be discussed below in the Division's explanation of its policy advancement objectives.

Policy Advancement

Goal

The Division will remain active in promoting policies to protect and advance the interests of utility, communications, and transportation consumers on the local, state and national levels.

Planned Approach/Methods

In PUC generic/policy proceedings, the Division follows a similar approach to its review and analysis of applications. After the Division and other parties to the proceeding state their initial position on the issues, discovery and analysis is done on the various parties' positions. Meetings between the parties are typically held to discuss and educate each other on the issues and positions taken, and where possible agreement is reached. The Division ultimately recommends to the PUC what it believes to be in the best interest of consumers. Specific ongoing policy dockets are discussed later in this report

As a member of the Federal Communications Commission's Consumer Advisory Committee, the Division is able to provide input to the FCC on national communications issues that also affect Hawaii consumers. The Division will continue to be an active participant in helping formulate committee recommendations to the FCC as they make decisions regarding the implementation of our federal communications laws.

The Division has been and will continue to monitor Congressional activity in the utility, and communications areas. The division will continue to maintain contact with its Congressional delegation, particularly those members sitting on committees that deal with energy and communications, and will continue to provide input where appropriate.

The Division will also continue to be actively involved and advocate for Hawaii consumers, through its membership in the National Association of State Utility Consumer Advocates (NASUCA). NASUCA is very active before the FCC, Congress, and the federal courts in advancing consumer interests on national issues that impact consumers locally.

The Division will also continue to be actively involved with the State Legislature which ultimately sets policy on the State level. The primary means has been to advise legislators through testimony of the consumer benefits or detriments relating to specific proposals they are considering. The Division has begun to attempt to take a more proactive approach by working with legislators and policy groups on the development of proposals.

Measures

Measuring performance of efforts to promote policy objectives is inexact. While the Division does track the percentage of its positions that the PUC ultimately agrees with, this measure does not capture the efforts throughout proceedings to educate and work with other parties to come to agreement on issues. The Division can develop similar measures (i.e. whether their recommendations are ultimately agreed with by those setting the policy) at the state and federal agency and legislative bodies, but similar "inexact-ness" will result.

Education & Outreach

Goal

The Division's goal is to encourage the public to be wiser consumers of public utility services by emphasizing the possible affects that their consumption may have on utility rates and the environment. It is also through the education and outreach process that the Division aims to gather consumer input on utility issues.

Planned Approach/Methods

Through the use of its web site, public outreach activities, and effective communications the Division can accomplish its goals of positively affecting the habits of consumers throughout the state. With this in mind it has established an action plan to help it reach its goals and objectives.

The Division will continue to update and improve its web site with consumer friendly and useful content while consulting other state consumer advocates and their web sites for new ideas.

The Division will continue to maintain information booths and give presentations at community events, such as home shows and public fairs on Oahu and the neighbor islands. It will continue to expand these projects while looking for ways to build positive relationships with both business and community members. The Division will continue to strengthen its relationships with DBEDT's Energy Branch and other local, state and federal government agencies. It will also increase its focus on educating small businesses and helping them understand the benefits of demand side management and energy efficiency and how these issues can affect their bottom line.

The Division will also continue to improve communications with consumers and the public through the publication of its quarterly newsletter, and expand its distribution while continually developing relevant and interesting content.

The Division also plans to hold informational seminars and is considering the use of public service announcements, both of which will highlight different utility issues and topics.

Measures

To measure the Division's performance and progress of its education and outreach activities it will track the number of web page hits, events it attends, the correspondence it receives, and the number of newsletters it produces and distributes.

ACCOMPLISHMENTS

In 2005, results of the Division's efforts to protect and advance the interests of consumers were seen through its work on behalf of individual communities, as well as major utility issues that will have far-reaching impacts on people throughout the state. Several of these efforts are described below.

Hawaiian Telcom

The Division thoroughly reviewed the application for the sale of Verizon Hawaii to the Carlyle Group, and recommended conditional approval of the transaction to the PUC. After hundreds of information requests, and numerous meetings with the applicants and other parties in the docket, the applicants agreed to abide by several conditions to the sale which were subsequently approved by the Commission. Among the conditions were that the new company (Hawaiian Telcom) would not seek a general rate increase before 2009 unless there is a compelling need and additional equity is put into the company, that the transaction costs of the sale would not be recovered from ratepayers, and that reporting of various aspects of the company and its affiliates be made available to regulators. Verizon Hawaii also agreed to pay for a customer appreciation credit totaling \$12 million.

Enhanced Wireless 911 Services

The Division has been an active participant in the state's implementation of an order issued by the Federal Communications Commission (FCC) mandating that enhanced 911 (E-911) service be provided by wireless telecommunication carriers. The passage of Act 159 in 2004 provided the framework to implement the state wireless E-911 system to route emergency calls to emergency responders along with the wireless callers identification and location. Act 159 also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund. As a member of the board, the Executive Director of the Division has continued to be an active participant in the implementation of this system which is critical to the public safety of both Hawaii residents and visitors.

Federal Communications Commission's Consumer Advisory Committee

The Division's Executive Director was appointed to the Federal Communications Commission's Consumer Advisory Committee in May, 2005. This committee was formed to make recommendations to the FCC regarding consumer issues under its jurisdiction, including implementation of FCC rules and consumer participation in the rulemaking process, consumer protection and education, access to services by people with disabilities and by those in underserved areas and populations, and the impact of new and emerging technologies. As an active participant of the committee and three of its working groups, the Division is ensuring that the interests of Hawaii consumers are well represented before the FCC at this critical time when similar communications services are beginning to be offered by industries through different technologies and under various levels of regulatory oversight.

One Call Center Advisory Committee

The Executive Director of the Division is also a member of the One Call Center Advisory Committee, which makes recommendations to the PUC regarding the implementation of Chapter 269E, Hawaii Revised Statutes (Act 141 SLH 2004). This advisory committee was integral in developing the request for proposals for a vendor to operate this "call-before-you-dig" system. The system, which will be operational by January 1, 2006, will reduce the risk of critical services being disrupted, will insure greater public health and safety, and save excavators time and money.

Distributed Generation and Competitive Bidding

In FY ending 2004, the PUC initiated two dockets to examine the potential benefits and impacts of distributed generation on Hawaii's electric distribution systems and market, and to evaluate competitive bidding as a mechanism for acquiring or building new generating capacity in Hawaii. Distributed generation involves the use of small-scale electric generating technologies installed at, or near the end user's location. The objective of this proceeding is to develop policies and a framework for distributed generation projects deployed in Hawaii. The competitive bidding process has been widely implemented throughout the United States, and may serve as an alternative for Hawaii to facilitate wholesale market competition and enhance the potential for higher efficiency and lower costs for its electric industry. The Division has been actively engaged in developing recommendations for the PUC in both dockets by researching and analyzing the many policy and technical issues involved, while ensuring that the interests of Hawaii's consumers are protected. In this vein the Division strives to ensure the provision of continuous reliable service at reasonable costs, while at the same time advancing the state's energy objectives.

Integrated Resource Planning

Integrated Resource Planning (IRP) is a means for each energy utility to forecast their customers' needs and then create a "blue print" that outlines the actions it will take to meet the energy needs of its customers, both in the short and long term. This blue print will outline the capitol improvement projects necessary to ensure an adequate supply of energy and look at ways to reduce the customer base energy needs through Demand Side Management. The plan must be approved by the PUC, and serves as the guide for future utility projects and plans.

The IRP process is critical to the planning of Hawaii's energy future and must encompass many issues, often considered in isolation, as part of an integrated whole. Among the issues that must be thought out, worked through and integrated into a cohesive plan are those dealing with new central generation, demand side resources, renewable energy resources, distributed generation, interconnection, purchased power, and transmission. The IRP process is a docketed matter before the PUC and as such the Division is playing an active role through participation on various advisory groups and related committees, through attendance at public hearings to ensure that consumer interests are well represented, and in the review of the formal IRP plans as they are submitted to the Commission. It is our goal, that consumers realize savings through careful planning and analysis of the actual need for costly generation plants and effective demand-side management programs.

Hawaii Energy Policy Forum

The University of Hawaii convened the Hawaii Energy Policy Forum in 2002 to help develop and promote a vision for Hawaii's energy future. It is a collaborative effort that brings together interested stake holders including representatives of electric utilities; oil and natural gas suppliers; environmental groups; the renewable energy industry; state legislature; federal, state, and county government agencies; the business community; and other major energy consumers. The Forum's efforts focus on many different energy related issues, including social and cultural issues, energy conservation and efficiency, and regulatory reform. The Division believes that as an active participant in the forum it has and will continue to effectively represent consumer's views as major policy issues are discussed and as proposals are developed and implemented.

In addition to the above proceedings, during FY 03-04, the Consumer Advocate reviewed 152 motor carrier tariff change requests, and 117 non-rate applications, such as applications for capital improvement projects, purchase power agreements, and certificates of public convenience and necessity.

Education and Outreach

During the past year the division has, for the first time, focused a considerable amount of time and effort on education and outreach activities. This has allowed the Division to significantly increase its ability to educate consumers and extend its reach into communities throughout the state. 2005 saw the publication of the Division's first newsletters, which have become centerpieces in many of its educational activities. E-mail subscription lists and networks, and public events have proven to be effective, low cost means for distribution. The Division has also used other communications tools such as press releases, its web site, and other in-house produced publications. These tools were used to highlight various utility issues and to encourage greater participation in PUC public hearings, energy conservation and efficiency efforts, and to help promote a better understanding of the local regulated water & wastewater industries.

Other successes came through the Division's first attempt at setting up informational displays at shopping malls on the neighbor islands as it focuses more on meeting the needs of these consumers.

The CRF financial summary relating to DCA for FY 03-04 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,091,541	\$1,084,490	\$2,176,031	\$2,518,516

CONCLUSION

The Consumer Advocate will continue to prioritize its caseload to target projects and consumer issues that have the greatest impact on the ratepayers of utility, communication and transportation services in Hawaii. In addition, the Division is expanding its education and outreach efforts. Together, this places the program in a better position to take a more proactive approach to specific consumer issues and to gain greater public participation in decisions that are made that affect their utility and transportation services.