

DIVISION OF CONSUMER ADVOCACY (“DCA”)

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OVERVIEW

The Division of Consumer Advocacy (“DCA”) represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Hawaii Public Utilities Commission (“PUC”) and the Federal Communications Commission (“FCC”). The DCA reviews requests for rate and tariff changes, capital improvement projects, integrated resource plans, certificates for authority to operate, and other applications filed by public utility and transportation companies, in addition to other proceedings opened by regulatory agencies to investigate or review generic issues. In representing the consumer of utility and transportation services 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 generally submits either written statements of position or testimonies explaining its analyses, findings, and recommendations to the PUC. Oral testimonies by DCA analysts, subject to utility company cross-examination, is required if an evidentiary hearing before the PUC is scheduled to resolve differences among the parties to a proceeding, including the DCA.

Composition

The DCA consists of 23 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, Integrated Resource Planning (“IRP”), telecommunications, and education specialists, an economist, statisticians, a tariff analyst, auditors, engineers, attorneys, and clerical support. The DCA is located on the third floor of the King Kalakaua Building, 335 Merchant Street. Its contact information is as follows: mailing address, P.O. Box 541, Honolulu, HI 96809; phone number, 586-2800; internet address, www.hawaii.gov/dcca/dca/.

The majority of the DCA’s professional staff is divided among the Financial Analysis Branch, the Economics and Pricing Branch, the Engineering Branch, and the 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 and determining the reasonableness of companies’ operating expenses and rate base for rate-setting purposes. The Branch also reviews current accounting pronouncements to ensure that the financial information presented by the regulated companies is appropriate.

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 technical matters such as production capacity and efficiency, depreciation allowances, maintenance cost factors, engineering safety standards, plans for capital improvements, purchased power agreements, and quality of service standards.

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

Although the DCA is authorized to have four exempt positions, under HRS § 269-52(1), there presently is funding for only three exempt staff positions – the IRP Specialist, Telecommunications Specialist, and Education Specialist. The DCA also has a staff level position – the Public Utilities/Transportation Specialist – that assists the Public Utilities/Transportation Officer in managing the overall workload 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 program applications. The Telecommunications Specialist primarily focuses on filings pertaining to the telecommunications industry. The Education Specialist is responsible for consumer education and outreach, which is accomplished by attending various community events throughout the State to gain public input about specific issues affecting consumers and to provide information on utility services. The Education Specialist is also responsible for updating and maintaining the DCA's web site.

GOALS AND OBJECTIVES

The DCA'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 DCA's goals and how the DCA will reach them, the goals will be described separately.

Consumer Advocacy

Goal

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

Planned Approach/Methods

The DCA has and will continue to achieve this goal by advocating for consumers of regulated utility and transportation services 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 DCA's resources will continue to be focused on PUC proceedings. These proceedings often may affect the rates and the reliability of utility and transportation systems and services. The DCA's participation in PUC proceedings will typically involve some or all of the following:

1. Review of applications to ensure compliance with regulations;
2. Participation at PUC public hearings;

3. Procurement of consultant services to manage workload and for complex cases;
4. Completion of discovery;
5. Analysis of applications and supporting documents to determine the accuracy and the reasonableness of the requests;
6. Provision of recommendations to the PUC on the merits of the applications through statements of position or direct testimonies; Provision of oral testimonies, which are subject to cross-examination in proceedings where evidentiary hearings are necessary; and
7. Completion of related legal actions, such as filings of legal briefs, motions, appeals, etc., where necessary.

The DCA also will remain flexible and willing to work with parties to proceedings to negotiate and settle proceedings or particular issues when they are in the consumers' best interest.

While PUC proceedings often involve rate issues, the DCA also considers, to the extent possible, the long-term costs and benefits of proposals to determine the result that will best serve consumer interests with regard to reliable service and reasonable rates.

Measures

To measure the DCA's performance in advocating consumer interests, the DCA will continue to track various categories of information. Among others, the DCA monitors consumer savings due to its participation in PUC proceedings, the percentage of PUC decisions that agree with the DCA's recommendations, the number of service quality investigations it participates in, and the number of filings before the PUC reviewed by the DCA.

Only some of the significant impact that the DCA's participation may have upon consumers is easily measured. Some of the impacts that are not easily measured will generally be discussed below in the DCA's explanation of its policy advancement objectives.

Policy Advancement

Goal

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

Planned Approach/Methods

In PUC generic, investigative, or policy proceedings, the DCA follows a similar approach to its review and analysis of applications. A typical investigative proceeding may involve the following steps:

- After the DCA and other parties to the proceeding state their initial positions on the issues, discovery and analyses are done to determine the reasonableness of the other parties' positions;

- Meetings between the parties are often held to discuss and educate each other on the issues and positions taken, and to determine where possible agreement may be reached; and
- The DCA then provides the PUC with a recommendation that it believes is in the best interest of consumers.

Specific ongoing investigative dockets are discussed later in this report.

As a member of the FCC's Consumer Advisory Committee, the DCA was able to provide input to the FCC on national communications issues that also affect Hawaii consumers by helping to formulate committee recommendations to the FCC as it made decisions regarding the implementation of our federal communications laws.

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

The DCA 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 active before the FCC, Congress, and the federal courts in advancing consumer interests on national issues that impact consumers locally.

The DCA will also remain actively involved with the State Legislature, which sets policy at the State level. The DCA advised legislators through testimonies that detailed consumer benefits or detriments of specific proposals the legislators were considering. The DCA has attempted to take a more proactive approach by working with legislators and policy groups on the development of proposals, while maintaining a consistent policy position as advocated by the Governor's office.

Measures

Measuring performance of efforts to promote policy objectives is inexact. While the DCA tracks the percentage of its positions with which the PUC ultimately agrees, the measure does not capture the efforts throughout proceedings to educate and work with other parties to come to agreement on issues. The DCA can develop similar measures (e.g., whether its recommendations are ultimately agreed with by those setting the policy) for the state and federal agency and legislative bodies, but similar challenges with the imprecise nature of the measurement will result.

Education & Outreach

Goal

The DCA's goal is to encourage the public to be wiser consumers of public utility services by, among other things, emphasizing the possible effects that their consumption habits may have on utility rates and the environment. It is through the education and outreach process that the DCA aims to gather consumer input on utility issues and to encourage consumers to be more involved in utility proceedings.

Planned Approach/Methods

The DCA can accomplish its goal of positively affecting the habits of consumers on a statewide basis through the use of its web site and public outreach activities. The DCA established the following action plan to accomplish its goals and objectives:

1. update and improve its website with consumer-friendly and useful content;
2. establish information booths and provide presentations at community events, such as home shows and public fairs on Oahu and the neighbor islands and build positive relationships with both business and individual community members;
3. improve communications with consumers and the public through expanded distribution and publication of its newsletter; and
4. hold informational seminars or use public service announcements to highlight different utility issues and topics.

Measures

To measure the DCA's performance and progress of its education and outreach activities, it will track the number of people reached through education and outreach events, newsletters and other publications distributed, website hits, and consumers assisted with complaints and other issues.

ACCOMPLISHMENTS

In 2006, results of the DCA'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.

Rate Cases

Hawaiian Electric Company, Inc.'s ("HECO") 2005 Test Year Rate Case

In November 2004, HECO filed an application for approval to increase its rates (net rate increase for consumers of 7.3 per cent) and to amend its rules. In fiscal year 2005-2006, the DCA, among other things, developed testimonies and participated in an evidentiary hearing to resolve the issues outstanding in this docket. On September 27, 2005, the PUC issued an interim decision and order. The parties are awaiting the final disposition of this proceeding.

Hawaii-American Water Company's 2006 Test Year Rate Case

In August 2005, Hawaii-American Water Company, which operates the wastewater collection and treatment system that serves East Oahu, filed an application to increase its rates (a total increase of 16.63%) and to amend its rules. The DCA conducted its analysis of the issues and submitted testimonies and participated in settlement discussions with Hawaii-American Water Company and the City and County of Honolulu (the City and County of Honolulu sought and received Commission approval to participate in this proceeding as an intervenor). On July 25, 2006, the PUC issued an interim decision and order and the parties are awaiting the final disposition of this proceeding.

Three water and wastewater utilities apply for streamlined review process

In December 2005 and early January 2006, three water and wastewater utilities filed applications for approval to increase their rates and amend their rules and tariffs – KRWC, Corporation, dba Kohala Ranch Water Company, Waikoloa Sanitary Sewer Company, Inc., dba West Hawaii Sewer Company, and South Kohala Wastewater Corp. During fiscal year 2005-2006, the DCA conducted discovery, prepared and submitted written testimonies, negotiated with the utilities to determine whether any disputed issues could be resolved, and in two instances, filed stipulated settlement agreements. The PUC issued interim decisions and orders in two of the three cases. The DCA is awaiting the issuance of the third interim decision and order.

Major Capitol Improvement Projects

HECO's East Oahu Transmission Project

On December 18, 2003, HECO filed an application seeking commission approval to commit approximately \$55,644,000 to construct subtransmission lines underground for HECO's East Oahu Transmission Project ("EOTP"). HECO proposes to reconfigure and connect existing circuits from Pukele Substation at the end of HECO's northern transmission corridor with existing and new circuits at Archer Substation and Kamoku Substation in HECO's southern transmission corridor, in an attempt to provide reliable power to the east Oahu service area. During fiscal year 2005-2006, the DCA, one of numerous parties to this proceeding, conducted extensive discovery, participated in both a public hearing and an evidentiary hearing, and filed testimonies, opening briefs, and reply briefs. The DCA recommended that the costs related to an initial 138kV proposal and an additional transformer at the Archer Substation be removed from the costs projected for the EOTP as proposed, but otherwise did not object to the approval of the application. The DCA is awaiting the final disposition of this proceeding.

HECO's Campbell Industrial Park Generating Unit

In June 2005, HECO requested commission approval to commit approximately \$134,310,260 to build a 110 megawatt generating unit, the Campbell Industrial Park Generating Station. The DCA engaged in discovery and submitted testimonies to the PUC, stating that the DCA does not oppose the commitment of funds for the new combustion turbine and construction of the associated generating facilities to meet the Company's service obligations, provided that HECO power the unit with ethanol or some other bio-fuel. The DCA is preparing to go to evidentiary hearing on the issues disputed by the parties to the proceeding during the week of December 11, 2006. Following the hearing, the DCA will prepare opening and reply briefs for the PUC, and will await final disposition of this proceeding.

HECO's Community Benefits Program

On the same day that HECO filed its Campbell Industrial Park Generating Unit application, HECO filed an application requesting approval of a Community Benefits Program ("CBP") that HECO intends to offer in conjunction with its proposal to install new generation and related transmission facilities at Campbell Industrial Park (See paragraph immediately above). Included in the CBP are the following six "give back" elements: (1) a seven percent electric rate reduction over ten years for HECO residential customers located in zip code 96707; (2) construction of a reverse osmosis water supply pipeline and related facilities to serve the Kahe Generating Station, so as to use recycled wastewater to displace the use of potable water at Kahe;

(3) installation of equipment and operational funding for environmental monitoring, including air quality monitoring stations in three areas of West Oahu, and the commencement of a fish monitoring program in near shore waters of West Oahu; (4) pledged financial support for a Conservation Education Program, to support a community based volunteer organization to promote resource conservation practices; (5) creation of a Community Report Card summarizing environmental data, energy usage patterns, renewable and traditional energy resource planning and HECO community support activities; and (6) continued HECO corporate financial support in the form of donations to non-profit organizations in West Oahu. HECO proposed that the first three elements of the CBP listed above be funded by ratepayers, while the last three elements be funded by shareholders. After conducting discovery, the DCA filed testimonies stating that the DCA does not oppose HECO's offering any of the elements of the CBP, especially since none of the elements are expected to impair the Company's ability to provide regulated electric service. The DCA also agreed with HECO's proposal to have its shareholders fund the last three elements of the CBP, but recommended that the PUC find that ratepayers should not be responsible the costs associated with the rate reduction element of the CBP. The DCA is preparing to go to evidentiary hearing on the remaining issue during the week of November 27, 2006. Following the hearing, the DCA will prepare opening and reply briefs for the PUC, and will await final disposition of this proceeding.

Applications Requesting Approval to Transfer Control of Public Utilities

Transfer of Control of The Gas Company, LLC

In October 2005, an application was filed requesting PUC approval to transfer control of The Gas Company, which provides approximately 67,200 customers with regulated gas utility service in the State, from HGC Holdings LLC to Macquarie Gas Holdings LLC. The DCA conducted extensive discovery and on March 3, 2006, filed a statement of position recommending approval of the proposed transfer of control, provided that the PUC adopt fourteen regulatory conditions that were negotiated and agreed upon by the applicants and the DCA. The PUC approved the transfer of control, with the adoption of the stipulated regulatory conditions, in Decision and Order No. 22449, filed on May 3, 2006.

Transfer of Control of Puuwaawaa Waterworks, Inc.

After Puuwaawaa Waterworks, Inc. ("PWI"), a regulated provider of water service to a designated service territory on the island of Hawaii, filed for chapter 11 bankruptcy, Napuu Water, Inc. ("NWI"), a member-owned Hawaii nonprofit corporation operating as a cooperative of owner-customers, filed an application requesting approval to purchase the assets of PWI. The DCA's statement of position advised the PUC that the DCA did not object to the proposed transfer to NWI, with certain qualifications. On December 29, 2005, the PUC rendered a decision, approving the proposed transfer of control to NWI and imposing certain conditions.

Transfer of Control of Mauna Lani STP, Inc.

Hawaii-American Water Company filed an application on September 9, 2005 requesting approval to purchase the assets of Mauna Lani STP, Inc. ("Mauna Lani"), a public utility authorized to provide wastewater treatment and disposal service in the Mauna Lani Resort area on the island of Hawaii. On January 12, 2006, after extensive discovery, the DCA filed its statement of position, stating that sufficient evidence exists to support the PUC's approval of the proposed transaction, conditioned upon the adoption

of certain conditions. On February 28, 2006, the PUC approved the proposed transaction, subject to certain conditions.

Generic and Other Proceedings

Competitive Bidding for New Electric Generating Capacity in Hawaii

In 2004, the PUC initiated a proceeding to evaluate competitive bidding as a mechanism for acquiring or building new generating capacity in Hawaii. The use of a competitive bidding process to acquire new generating capacity 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 DCA has been actively engaged in developing recommendations for the PUC's consideration in this docket by researching and analyzing the many policy and technical issues involved with implementing such a process, while ensuring that the interests of Hawaii's consumers are protected. In fiscal year 2005-2006, the DCA worked toward developing and critiquing a proposed framework for the competitive bidding process.

HECO's Demand-side Management ("DSM") and Energy Efficiency Proceeding

In its November 2004 rate case application (see paragraph immediately above), HECO requested approval and/or modification of the Company's currently authorized DSM and load management programs and mechanism for recovery of program costs and DSM utility incentives. In March 2005, the PUC separated HECO's request for approval to continue offering the proposed DSM programs from HECO's request for rate increase, and opened a new docket (labeled by the PUC as the "Energy Efficiency Docket") to examine the Company's proposed DSM programs. In addition to HECO's DSM program proposals, the Commission ordered the parties to the docket to address several statewide issues that could effectively alter the manner in which DSM programs are offered, programs costs are recovered and whether incentives to promote DSM efforts continue to be provided in the future. In fiscal year 2005-2006, the DCA actively participated in the development of the record for this proceeding by conducting discovery, preparing testimonies, and participating in settlement discussions. In August 2006, the DCA participated in a "panel format" evidentiary hearing, wherein the proceeding's numerous parties were allowed to present various expert witness testimonies in response to the PUC's questions. Post hearing briefs have been prepared and filed with the Commission. The DCA is awaiting the final disposition of this proceeding.

Young Brothers, Limited's Less than Container Load Tariff Filing

In April 2006, Young Brothers, Limited filed an application seeking approval to amend its Tariff No. 5-A by discontinuing less than container load ("LCL") service to and from Kahului Harbor. If approved, shipment of LCL cargo would need to be consolidated by entities other than Young Brothers prior to transport to and from the Kahului Harbor. The DCA participated in public meetings held by the PUC statewide to take public comment on this issue, and also held its own meetings with the public to discuss the impacts of Young Brothers' proposal on the public who rely on the transport of LCL cargo to and from the Kahului Harbor. Based on the information obtained in such meetings, the DCA was better able to assess the reasonableness of Young Brothers' request. The Department of Transportation, Harbors Division, Young Brothers, and the DCA negotiated a memorandum of understanding, which allowed Young Brothers to continue its LCL service to and from Maui for a stated future period. The memorandum of understanding also included provisions that would allow Young Brothers to commit to providing LCL

service to and from other ports in the State for an extended future period. As a result of the understanding, Young Brothers withdrew its application with the PUC requesting the tariff amendment.

Advocacy through Participation on Committees and Boards

Enhanced Wireless 911 Services

The DCA has been an active participant in the State's implementation of an order issued by the FCC mandating that enhanced 911 ("E-911") services be provided by wireless telecommunication carriers. The passage of Act 159 in 2004 provided the framework to implement the State's 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 DCA 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 DCA's Executive Director was appointed to the FCC's Consumer Advisory Committee in May 2005 for a term to last through December 2006. 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 DCA 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 DCA 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 was operational on January 1, 2006, will reduce the risk of critical services being disrupted because utility systems were inadvertently damaged due to excavation work conducted in areas where the systems are placed in underground facilities. This will insure greater public health and safety, and ultimately save excavators time and money.

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 stakeholders including representatives of electric utilities; oil and synthetic 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 DCA believes that as an active participant in the forum it has and will continue to effectively represent consumers' views as major policy issues are discussed and as proposals are developed and implemented.

In addition to the above proceedings, during the fiscal year 2005-2006, the DCA reviewed approximately 210 motor carrier tariff change requests and 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 DCA has focused a considerable amount of time and effort on expanding its education and outreach activities. This has allowed the DCA to increase its ability to educate consumers and extend its reach into communities throughout the State.

Together with the Department of Business, Economic Development, and Tourism's Energy Branch, the DCA co-sponsored the "Hawaii Green Building Conference" in May. Through group discussions and presentations the conference focused on energy efficiency through selecting the right kind of environmentally friendly materials and use of existing federal programs such as Energy Star for residential development and Leadership in Energy and Environmental Design ("LEED") standards for new and existing commercial building construction.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has doubled its electronic distribution list from 100 recipients to 200 recipients during 2006. The DCA also used other communications tools such as press releases, its web site, and other in-house produced publications to reach the public. 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 consumers make wise choices when purchasing telecommunications services.

The DCA continued to increase its outreach and education efforts on the neighbor islands by joining the Department in making informal visits to major shopping malls on each of the neighbor islands where informational displays were set up allowing consumers to ask questions and take publications made available by the DCA.

Document Management System

The DCA, in partnership with the PUC, is developing a new docket and document management system to improve internal efficiencies and to make documents filed with the PUC available to the public in electronic format. This new system may be implemented as early as June 2007.

Financial Summary

The CRF financial summary relating to DCA for fiscal year 2005-2006 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,108,782	\$798,804	\$1,907,586	\$2,673,523

CONCLUSION

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