

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 25 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, tariff analysts, researchers, 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 Rate Analysis Branch, the Engineering Branch, the Research Branch, and the Legal Branch.

The *Rate Analysis Branch* reviews and analyzes economic conditions, 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 *Research Branch* analyzes and advises on matters imposed by regulated public utility and transportation industries, provides services and advice relating to the current operations of and evolving changes to regulated public utilities and transportation industries, conducts special studies on the changes in various regulatory areas, including energy and telecommunications, and assists and participates with other units in developing data on matters under examination.

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 up to ten exempt positions, under HRS § 269-52(1), there presently is funding for only five exempt staff positions – the Education Specialist and four utility research analysts. 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 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 and publishing a quarterly newsletter.

Given the DCA's historical difficulty in attracting and retaining staff, the DCA this year received authorization to reorganize, tailoring the position descriptions to that which are more aligned to the position duties and work of the DCA.

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

The DCA's goal may involve some balance. Ensuring that Hawaii's consumers receive fairly priced rates for safe and reliable services, while ensuring customer and environmental protections and renewable resource use, is the DCA's responsibility and primary 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.

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.

The DCA has monitored and will continue to monitor Congressional activity in the energy and telecommunications areas. The DCA will continue to maintain contact with Hawaii's 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 throughout the State 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, and consumers assisted with complaints and other issues.

ACCOMPLISHMENTS

In 2008, 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") 2007 Test Year Rate Case

On December 22, 2006, HECO filed an application for approval to increase its rates (by approximately \$99,556,000 or 7.1% over present rates) and to amend its rules. In fiscal year 2007-2008, the DCA, among other things, participated in a public hearing, conducted inspections and witness interviews, developed testimonies, and engaged in a negotiation process with HECO and the Department of the Navy to resolve the outstanding issues of this proceeding. On October 22, 2007, the PUC issued an interim decision and order, providing the company with a \$69,997,000 or 4.96% increase over present rates. The parties are awaiting the final disposition of this proceeding.

Maui Electric Company, Limited's ("MECO") 2007 Test Year Rate Case

On February 23, 2007, MECO, which provides electric service on the islands of Maui, Lanai, and Molokai, filed an application to increase its rates (by approximately \$18,977,000 or 5.3%) and to amend its rules. Similar to the HECO rate case proceeding, the DCA participated in a public hearing, conducted inspections and witness interviews, developed written testimonies, and participated in settlement discussions with MECO. On December 21, 2007, the PUC issued an interim decision and order, providing a \$13,222,000 or 3.7% increase over present rates. The parties are awaiting the final disposition of this proceeding.

Young Brothers, Limited's ("YB") 2007 Test Year Rate Case

On December 15, 2006, YB filed an application for general rate increase (an average, overall rate increase of 10.7%), rate restructuring, fuel adjustment clause, and other changes in its Local Freight Tariff No. 5-A. During fiscal year 2007 - 2008, the DCA participated in public hearings held statewide, conducted witness interviews, developed testimonies, and engaged in a negotiation process with YB to

resolve the outstanding issues in the proceeding. The PUC issued a decision and order on October 12, 2007, providing the company with an increase in intrastate freight revenues of \$4,391,105, or approximately 7.51% over intrastate revenues at present rates.

West Hawaii Utility Company's ("WHUC") 2007 Test Year Rate Case

On December 29, 2006, WHUC filed an application seeking the PUC's approval of general rate increases of: (1) \$1,594,313, or 52% over revenues at present rates for its water service; and (2) \$1,107,089, or 132% over revenues at present rates for its wastewater service. After objection as to the completeness of the application by the DCA, WHUC supplemented its application. The PUC determined that a completed application was filed effective January 26, 2007. Thereafter, the DCA participated in a public hearing, conducted discovery, prepared written direct testimonies, and negotiated with WHUC to resolve the outstanding issues of the proceeding. The PUC issued an interim decision and order on December 21, 2007 and a final decision and order on March 10, 2008.

Hawaii-American Water Company's ("HAWC") 2008 Test Year Rate Case

On October 29, 2007, HAWC filed an application for approval to increase its rates (by approximately \$1,324,488 or 15.9% over present rates) and to amend its rate schedules and rules for service. The DCA participated in public hearings, conducted witness interviews and discovery, prepared written direct testimonies, and negotiated with HAWC and the City and County of Honolulu to resolve the outstanding issues. On October 10, 2008, the PUC issued an interim decision and order in this proceeding, providing the company with a \$701,817 or 8.37% increase over present rates.

Generic and Other Proceedings

HECO Companies' Outage Proceeding

On October 27, 2006, in response to the DCA's request for the PUC to open an investigative proceeding, the PUC initiated a proceeding to examine the major power outages that occurred on the islands of Oahu, Maui, and Hawaii on October 15 and 16, 2006. During the fiscal year 2007 – 2008, the DCA hired an expert in utility operations who assisted in conducting witness interviews, site inspections, and discovery. On August 24, 2007, the DCA filed a statement of position developed with its expert consultant, finding, among other things, that:

(1) There were three underlying causes that contributed or may have contributed to the major power outages, including:

(a) the reaction of the Electro-Hydraulic Control System Low Fluid level mercury switches to the earthquake's seismic vibrations;

(b) the lack by the HECO Companies of formalized training, testing, practiced simulation, certification, re-qualification, and record keeping for plant and system operators; and

(c) the HECO specific generation mix and lack of quick-start combustion turbine generator capability;

(2) The HECO Companies' activities and performance prior to and during the major power outages were reasonable and in the public interest; and

(3) Given the mix of generating plants and level of staff preparedness training at the time, the Oahu island-wide outage was an understandable outcome and the island-wide outage on Maui was unavoidable, since generators were automatically and directly tripped off by their own protective controls due to seismic vibration.

In December 2007 and January 2008, the HECO Companies supplemented their filings by providing additional information relating to the training programs for their plant and system operators. After review of the voluminous information and additional discussions with the HECO Companies, the DCA responded in September 2008, again stating that HECO Companies lacked sufficient formalized training, testing, practiced simulation, certification for their plant and system operators. The parties to this proceeding are awaiting the final decision of the PUC on this proceeding.

Renewable Portfolio Standards ("RPS") Proceeding

On January 11, 2007, the PUC initiated a proceeding to determine a ratemaking structure to provide the electric utilities with the incentives to comply with the State's RPS requirement, including the treatment of penalties for non-compliance with the RPS. During fiscal year 2007 – 2008, the DCA participated in a number of technical meetings held by the parties to the docket and submitted a joint filing addressing the ratemaking structure for the PUC's consideration. On December 20, 2007, the PUC adopted, in part, and denied, in part, the stipulation and joint proposal filed by the HECO Companies, Hawaii Renewable Energy Alliance, and the DCA. In particular, the PUC declined to adopt the proposed temporary renewable energy infrastructure surcharge mechanism, opening a separate proceeding to address that proposal.

Renewable Energy Infrastructure Surcharge Program Proceeding

By order filed on December 20, 2007, the PUC initiated this proceeding to review the proposal for temporary use of a renewable energy infrastructure mechanism in the RPS proceeding. The proposal was intended to provide the HECO Companies with a cost recovery mechanism for projects placed in service that would encourage the use of renewable energy resources. The DCA participated in public hearings held statewide, conducted discovery, and participated in meetings held by the parties to discuss the merits of the proposal. In June 2008, the parties to the proceeding filed a stipulation resolving the docket issues for the PUC's consideration. The parties are awaiting a decision and order in the docket.

In addition to the above proceedings, during the fiscal year 2007-2008, the DCA reviewed approximately 193 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.

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.

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 ensure 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 a 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.

Hawaii Clean Energy Initiative

On January 31, 2008, the State of Hawaii and the United States Department of Energy (“U.S. DOE”) launched the Hawaii Clean Energy Initiative, an agreement, which among other things, established for the State a goal of 70% clean energy resource use by 2030. The State and the U.S. DOE formed various committees designed to examine differing aspects of the State’s energy use – transportation, electricity, energy efficiency, etc. The DCA is participating in the HCEI’s Integration Committee, which, with the aid of U.S. DOE experts, seeks to consolidate the themes and suggestions put forth by the remaining committees.

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.

The DCA continued distributing its newsletter at public fairs and festivals throughout the State, and has vastly increased its electronic distribution list during the 2007 – 2008 fiscal year. While the DCA has

reduced the overall number of events attended, it has targeted those events most likely to produce consumers interested in utility and conservation matters, increasing the overall number of consumers reached. 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.

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 the first quarter of 2009.

Financial Summary

The CRF financial summary relating to DCA for fiscal year 2007-2008 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,024,430	\$854,420	\$1,878,850	\$2,891,399

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.