

## DIVISION OF CONSUMER ADVOCACY (DCA)

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### OVERVIEW

The Director of the Department of Commerce and Consumer Affairs, through 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 consumers 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, the 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, are required when an evidentiary hearing before the PUC is scheduled to resolve differences among the parties to a proceeding.

By statute (Hawaii Revised Statutes § 269-52), the Director of the Department of Commerce and Consumer Affairs is the Consumer Advocate, but may employ and delegate the duties of the Consumer Advocate to an executive administrator, and the DCA shall provide administrative and functional support to the Director or his/her agent.

### COMPOSITION

The DCA consists of 14 employees, ranging from an administrator, a secretary, a utilities/transportation officer, a utilities/transportation specialist, an education specialist, rate 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/](http://www.hawaii.gov/dcca/dca/).

The majority of the DCA’s professional staff is comprised of 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 on 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 branches in developing data and conducting analyses 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.

Not counting the Legal Branch, the DCA is authorized to have up to nine exempt positions, under Hawaii Revised Statutes ("HRS") § 269-52(1). Pursuant to Act 130, Session Laws of Hawaii ("SLH") 2010, funding was provided to restore four of the exempt positions, as well as four of the civil service positions that were abolished by the 2009 Legislature. 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. In addition to providing analysis on docketed filings, 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, in 2008, the DCA received authorization to reorganize, tailoring the position descriptions to be better aligned with the position duties and work of the DCA. Since the restoration of the eight positions in FY2010, the DCA has completed revising the necessary position descriptions that would allow the DCA to recruit for these positions.

## **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 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. This goal generally involves balancing various competing interests.

*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 impacts that the DCA's participation may have upon consumers are easily measured. Those 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. Two of the major objectives that the DCA will pursue are the advancement of Federal and State broadband initiatives, as well as continued efforts to promote and facilitate Hawaii's transition away from imported fossil fuels towards an indigenous clean

energy industry. As part of these advancement efforts, the DCA will be possible modifications to existing regulatory frameworks that may be inhibiting progress.

#### *Planned Approach/Methods*

In the PUC's 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;
- Technical 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;
- The DCA then provides the PUC with a recommendation that it believes is in the best interest of consumers; and
- Evidentiary or panel hearings are held by the PUC to take evidence provided orally by DCA witnesses or consultants hired by DCA to provide expert testimonies on specific technical issues.

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 advises 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 the performance of the DCA's 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 is likely to 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. In addition, consumers need to be aware that many of the benefits proposed under Hawaii's Clean Energy Initiative will not be immediately apparent in their bills. Thus, education of reasonable expectations is necessary to avoid misinformation from occurring.

### *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 2011, 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") 2009 and 2011 Test Year Rate Case*

HECO's 2009 test year application was filed on July 3, 2008, but there are still pending issues related to this docket. There were outstanding issues related to the regulatory treatment for certain projects. During FY 2012, the DCA entered into a settlement with HECO that resulted in HECO recognizing a \$9.5 million decrease in its East Oahu Transmission Project (the total cost that HECO sought to include

was over \$53.5 million), which lowered the overall rates required to be recovered from ratepayers from the 2011 test year.

The DCA continues to work with the parties on possible resolutions on the amounts that HECO may recover for its Campbell Industrial Park CT-1 unit, as well as HECO's new customer information system. The DCA will continue to seek to reduce the overall impact on ratepayers associated with these significant projects that should otherwise be subject to a focused regulatory audit to ensure that ratepayers are not asked to compensate HECO for costs that should not be recovered from customers.

In FY 2012, the DCA pressed HECO concerning the public outcry over Hawaiian Electric Industries, Inc.'s ("HEI") CEO Constance Lau's executive compensation package. HECO then voluntarily removed approximately \$755,000 from HECO's revenue requirements associated with HEI's allocated costs for executive officers' compensation.

*Maui Electric Company, Limited's ("MECO") 2012 Test Year Rate Case*

On July 22, 2011, MECO filed an application for approval to increase its rates (by approximately \$23,500,000 or 6.7%, over revenues at current effective rates) and to amend its rules. The DCA, among other things, participated in public hearings on each of the islands in MECO's service territory (Maui, Lanai, and Molokai), conducted inspections of company facilities and witness interviews, and has initiated an extensive discovery process. The DCA recommended numerous adjustments and a lower overall increase in the revenue requirements.

Through rigorous efforts and negotiations, MECO and the DCA entered into a global settlement where it was offered that MECO should receive only a \$13,089,000 increase in revenue requirements. The PUC adopted this settlement for interim increase purposes.

As part of the inquiries into the reasonableness of HEI executive compensation and how much was recovered through utility rates, MECO and the DCA negotiated the removal of some of those costs from base rates, as well as additional adjustments that further reduced the overall revenue requirements.

*Young Brothers, Limited's ("YB") Application for Rate Increase*

On December 23, 2010, YB filed an application for a general rate increase the DCA determined as incomplete since it did not contain actual results of operation for the previous calendar year. On May 6, 2011, pursuant to the PUC's Order, YB re-filed its application for a rate increase with a 2011 test year. The re-filed application requested a 28.8% rate increase in the amount of \$16,986,000. YB argued in its application that it would lose significant revenue as a result of competition with Pasha Hawaii Transport Lines LLC into the inter-island shipping market. In the alternative, YB requested a revenue increase of \$13,591,000 or a 22.50% revenue increase without the "Pasha impact."

An evidentiary hearing was held on November 1, 2011, and most issues were settled, including the "Pasha impact" that YB agreed to withdraw from consideration by the PUC. A significant position taken by the DCA in this docket and not settled or withdrawn during the evidentiary hearing was the issue that YB was not entitled to include an imputed corporate income tax allowance in its cost of service because YB and its corporate parent Saltchuk Resources, Inc. are both Subchapter S corporations and neither pay corporate income taxes. The parties then briefed the income tax issue on November 16, 2011. The DCA

argued that Hawaii's consumers should not be required to pay the personal income taxes of Saltchuk's shareholders, which would be the result if YB was allowed to include a phantom income tax expense in its cost of service.

On December 16, 2011, the PUC issued its Decision and Order stating the parties ultimately reached a settlement on all issues except the inclusion of income tax expense in YB's cost of service. As a result of the parties' settlement, the parties agreed to an increase in YB's intrastate freight revenues, with the inclusion of income tax expense, of 17.37 percent. The PUC adopted the unredacted results of operation schedules filed by YB on November 30, 2011 and found that on balance, the increase in intrastate revenues of \$10,574,932 provides YB with a reasonable opportunity to achieve its Test Year intrastate revenue requirement of \$74,342,455. The PUC approved the parties' stipulation and determined that income tax expense should be included in YB's cost of service on a stand-alone basis. The PUC also instructed that the methodologies used by the Parties in reaching their settlement may not be cited as precedent by any parties in future PUC proceedings.

*Hawaii Water Service Company, Inc. – Pukalani Wastewater District  
("Pukalani") 2012 Test Year Rate Case*

On August 12, 2011, Pukalani filed its application seeking a 225% revenue increase equal to \$1,325,924 over revenues at present rates for wastewater service provided to residential, commercial and governmental customers in Pukalani, Maui. Pukalani is seeking cost recovery for the replacement of its wastewater treatment plant and higher operating expenses. On February 8, 2012, the DCA filed testimony opposing the significant rate increase and instead proposed a rate increase of 26% based on a finding that the new wastewater treatment plant was built with excess capacity and that certain operating expenses were overstated. The DCA and Pukalani are currently in settlement negotiations to resolve the last outstanding issue regarding excess plant capacity and related operating expenses.

*Molokai Public Utilities, Inc.'s ("MPUI") and Waiola O Molokai, Inc.'s  
("WOMI") Rate Cases*

On June 16, 2008, the PUC issued an order opening a proceeding to provide temporary rate relief to two related water utilities, MPUI and WOMI. The PUC was responding to an announcement in late March 2008 by Molokai Properties, Limited ("MPL"), of its intention to cease all current water service operations on Molokai. On August 14, 2008, the PUC approved rate increases for the companies, effective on September 1, 2008. The PUC's Decision and Order required MPUI and WOMI to file rate increase applications within six months of the date of the Decision and Order if a third party was not found to take over the utilities.

Thus, on March 2, 2009, MPUI and WOMI filed rate increase applications with the PUC, requesting revenue increases of \$562,550 and \$308,781 over revenues at present rates for MPUI and WOMI, respectively. The DCA objected via statements regarding completeness of applications to MPUI's and WOMI's requests to waive the requirement to file audited financial statements in compliance with the PUC's rules. On April 2, 2009, the PUC denied MPUI's and WOMI's requests to file unaudited financial statements, requiring the companies to obtain independently audited financial statements and to file amended applications reflecting such audited financials.

Subsequently, on June 29, 2009, MPUI and WOMI filed amended applications for rate increase with the PUC, seeking net revenue increases of \$886,259 and \$473,431 for MPUI and WOMI, respectively, using the pro forma revenue amounts at present rates for the 2009-2010 test year. The DCA participated in all aspects of these proceedings, including, but not limited to, public hearings discovery process, written testimonies, a mediation process, and evidentiary hearings. The PUC filed its Interim Decision and Orders in the MPUI and WOMI cases on May 28, 2010, which adopted most of the settlement agreement between MPUI, WOMI and the DCA. This authorized MPUI to increase its rates on an interim basis by \$542,724, or an approximate increase of 125.2%. WOMI's authorized increase was \$241,478, or an approximate increase of 222.8%.

The PUC filed its Final Decision and Order in the MPUI case on September 23, 2010, which allowed the \$548,682 increase that was agreed to in settlement. The final decision in the WOMI case was filed on February 8, 2011, which allowed a \$360,238 increase or an approximate 284% increase. The PUC acknowledged the significant increase but noted that it was necessary as the utility had not requested a rate increase for over seventeen (17) years. The PUC approved the settlement proposal between the DCA and WOMI to implement a three-step phase-in to allow ratepayers an opportunity to absorb the consequences of the rate increase over a period of twelve months.

The County of Maui appealed both the PUC's final Decision and Orders in both the MPUI and WOMI dockets. The DCA filed Appellee responsive brief in both appellate proceedings. The Hawaii Intermediate Court of Appeals affirmed both the MPUI and WOMI docket decisions by the PUC on February 13, 2012 and June 14, 2012.

### ***Biofuel Supply Contracts***

*Aina Koa Pono-Ka'u LLC ("AKP") Biodiesel Supply Contract with Hawaii Electric Light Company, Inc., ("HELCO")*

On January 6, 2011, HELCO, HECO, and MECO (collectively, the "HECO Companies") filed an application respectfully asking the PUC to, among other things, approve the contract between HELCO and AKP and to allow HECO and HELCO to use either base rates, the Energy Cost Adjustment Clause ("ECAC") or a Biofuels Surcharge to recover the costs associated with the contract. Following public hearings on the islands of Hawaii and Oahu, on August 23, 2011, the DCA submitted its recommendations that the PUC:

1. Approve the AKP Biodiesel Supply Contract executed between HELCO and AKP on January 6, 2011;
2. Authorize HELCO, pursuant to HAR § 6-60-6(2), to include the costs incurred under the Biodiesel Supply Contract in HELCO's ECAC to the extent such costs are not recovered in HELCO's base rates;
3. Establish a Biofuels Surcharge Provision that would allow only HECO to pass through the difference between the cost of biofuel and the cost of petroleum fuel that the biofuel would be replacing over the customer base of HECO on a per kWh basis;
4. Allow HECO to include the cost differential associated with the AKP Biodiesel Supply Contract in the Biofuel Surcharge Provision to the extent that the Biofuel Surcharge Provision is approved in Docket No. 2011-0005; and

5. Allow the HECO Companies to dispatch the HECO Companies' respective electric utility systems when using biodiesel as if the biodiesel was priced at a figure equal to the price of petroleum diesel, provided further that the HECO Companies could dispatch their respective systems in a manner that would consume the minimum annual volumes required by the AKP Biodiesel Supply Contract, in Docket No. 2011-0005.

On September 29, 2011, the PUC issued a Decision and Order denying the relief sought by the HECO Companies in the application filed by the HECO Companies on January 6, 2011. Uncertain as to what the analysis contained in the Decision & Order meant for proceedings that concerned the approval of biofuel supply contracts in the future, on October 10, 2011, the DCA filed a Motion For Clarification asking the PUC to clarify, among other things, whether the DCA should factor the cost of petroleum fuel heavily in determining whether a biofuel supply contract is reasonable for purposes of contract approval henceforth. After discussing the matter further with the HECO Companies in subsequent days, on November 8, 2011, the DCA filed a Request To Withdraw Its Motion For Clarification filed on October 10, 2011. On August 2, 2012, in Docket No. 2012-0185, the HECO Companies filed another application seeking PUC approval of a re-negotiated biodiesel supply contract executed between HELCO and AKP on August 1, 2012. Proceedings in Docket No. 2012-0185 are continuing as of the compilation of this report.

*Pacific Biodiesel, Inc. ("PBI") Biodiesel Supply Contract With HECO*

On November 30, 2011, HECO filed an application asking the PUC to, among other things, approve the Biodiesel Supply Contract executed between HECO and PBI on June 15, 2011; and authorize HECO to include the costs incurred under the Biodiesel Supply Contract in HECO's ECAC to the extent such costs are not recovered in HECO's base rates.

After conducting discovery, on August 24, 2012, the DCA filed a SOP recommending that the PUC:

1. Approve the PBI Biodiesel Supply Contract executed between HECO and PBI on June 15, 2011; and
2. Authorize HECO, pursuant to HAR § 6-60-6(2), to include the costs incurred under the Biodiesel Supply Contract in HECO's ECAC to the extent such costs are not recovered in HECO's base rates, in Docket No. 2011-0368.

As of the end of October 2012, the PUC has yet to issue a Decision and Order in Docket No. 2011-0368.

*Hawaii BioEnergy, LLC ("HBE") Biofuel Supply Contract With HECO*

On November 30, 2011, HECO filed an application asking the PUC to, among other things, approve the Biofuel Supply Contract executed between HECO and HBE on August 8, 2011, and authorize HECO to include the costs incurred under the Biofuel Supply Contract in HECO's ECAC to the extent such costs are not recovered in HECO's base rates.

The DCA participated in a discovery process, but subsequent to the originally scheduled discovery process, on June 28, 2012, the PUC issued an order establishing additional issues to be examined by the parties in Docket No. 2011-0369. Furthermore, on October 12, 2012, the PUC granted Life of the Land

("LOL") intervention into Docket No. 2011-0369 and named the Department of Business, Economic Development, and Tourism of the State of Hawaii ("DBEDT") as a participant in the same docket. As of the end of October 2012, there are remaining procedural issues that need to be resolved and, accordingly, the work in Docket No. 2011-0369 is still on-going.

***Purchase Power Agreements ("PPA")***

***McBryde Sugar Company, Limited ("McBryde") PPA***

On August 5, 2011, Kauai Island Utilities Cooperative ("KIUC") filed an application with the PUC for approval, among other things, of a PPA with the developer, McBryde, who is wholly owned by Alexander & Baldwin, Inc. for a six (6) megawatt ("MW") photovoltaic ("PV") solar energy system located in Eleele, Kauai.

On December 6, 2011, the DCA filed its SOP recommending approval of the McBryde project. On March 16, 2012, the PUC issued a Decision and Order approving the McBryde PPA.

***Kapolei Sustainable Energy Park ("KSEP") PPA***

On August 12, 2011, HECO filed an application with the PUC for approval of a PPA with the developer, Forest City Sustainable Resources Oahu, LLC ("Forest City"), for the one MW KSEP PV solar energy system located in Kapolei, Hawaii.

On October 27, 2011, the DCA filed its SOP recommending approval of the KSEP project, with the condition that HECO file an amendment to the PPA correcting the energy price to accurately reflect the 35% state credit as set forth in HRS § 235-12.5. On November 2, 2011, HECO and Forest City entered into the First Amendment of the PPA to reflect the 35% state tax credit. On November 18, 2011, the PUC issued a Decision and Order approving the KSEP PPA and First Amendment.

***Kaheawa Wind Power, LLC ("KWP") PPA Amendment***

On August 22, 2011, MECO filed an application with the PUC for approval of an amendment to an existing PPA with KWP for the thirty (30) MW wind farm located at Kaheawa Pastures, Ukumehame, Maui. The amendment with KWP was the first amendment for an existing PPA that delinked the energy price from fossil fuel prices for the remaining term of the PPA as set forth in HRS § 269-27.2(c).

On February 2, 2012, the DCA filed its SOP recommending approval of the KWP PPA amendment. On April 17, 2012, the PUC issued a Decision and Order approving the KWP PPA amendment.

***Kawailoa Wind, LLC ("KWLLC") PPA***

On September 23, 2011, HECO filed an application with the PUC for approval, among other things, of a PPA with KWLLC, which was organized by First Wind, LLC, to develop the thirty (30) MW wind farm at Kamehameha Schools' Kawailoa Plantation on the north shore of the island of Oahu.

On November 29, 2011, the DCA filed its SOP recommending approval of the KWLLC PPA. On December 12, 2011, the PUC issued a Decision and Order approving the KWLLC PPA.

*Kauai Island Utilities Cooperative ("KIUC") Renewable Solutions One LLC ("KRS One") PPA*

On October 17, 2011, KIUC filed an application with the PUC for approval of certain financing arrangements, which included among other things, the PPA arrangements between KIUC and its wholly-owned subsidiary, KRS One, to construct, own, and operate a fourteen (14) MW PV solar energy project and battery energy storage system, in the Anahola area in a property owned by the Department of Hawaiian Home Lands, Kauai.

On April 25, 2012, the DCA filed its SOP recommending approval of the KRS One project. A final decision and order is pending.

*MP2 Hawaii Solar, LLC ("MP2") PPA*

On November 28, 2011, KIUC filed an application with the PUC for approval of, among other things, a PPA with MP2 for a 300 kilowatt ("kW") PV solar energy system, located in Koloa, Kauai.

On May 25, 2012, the DCA filed its SOP recommending approval of the MP2 PPA. A final decision and order is pending.

*Kalaeloa Renewable Energy Park ("KREP") PPA*

On December 21, 2011, HECO filed an application with the PUC for approval of a PPA with the developer, KREP, for the five (5) MW KREP PV solar energy system located in Barbers Point, Kalaeloa, Oahu.

On July 3, 2012, the DCA filed its SOP recommending approval of the KREP project. On October 22, 2012, the PUC issued a Decision and Order approving the KREP PPA, with conditions.

*Honolulu Program of Waste Energy Recover ("H-Power") PPA*

On May 25, 2012, HECO filed an application with the PUC for approval of, among other things, an amended and restated PPA with the City and County of Honolulu ("City") regarding the H-Power municipal solid waste to energy facility for Renewable Firm Energy and Capacity. The amended and restated PPA amends and restates the existing PPA with the City for the current H-Power facility of 46 MW and includes the City's new expansion facility of 27 MW for a total of 73 MW.

On October 17, 2012, the DCA filed its SOP recommending approval of the H-Power amended and restated PPA, with the condition that a term and condition of the PPA associated with HECO's cost recovery mechanism be revised. On October 30, 2012, HECO filed its Reply SOP, rescinding its request for the applicable term and condition in the H-Power amended and restated PPA.

***Declaratory Rulings***

*Declaratory Order Regarding the Exemption of the Kalaeloa Partners, LP's ("KPLP") Project from the Competitive Bidding Framework*

On November 10, 2011, HECO filed a petition with the PUC seeking a declaratory ruling finding that KPLP's proposal to renegotiate its existing PPA with HECO is exempt from the Competitive Bidding Framework for KPLP's 208 MW cogeneration facility in Kalaeloa, Oahu. The Competitive Bidding Framework was adopted by the PUC on December 8, 2006, in Docket No. 03-0372, to establish a process through which new large-scale generation would be built and acquired.

On April 4, 2012, the DCA filed its SOP recommending approval of the petition with the conditions of annual reporting requirements to ensure that HECO is able to procure alternative resources, if necessary, to serve customers' reliability and at a reasonable cost. On May 14, 2012, the PUC issued a Decision and Order approving the Petition with the reporting requirements.

*Waiver Application from the Competitive Bidding Framework for Negotiations of a United States Department of the Army ("Army") Firm and Renewable Generation Project*

On December 27, 2011, HECO filed an application petition with the PUC seeking a waiver from the Competitive Bidding Framework to allow negotiations with the Army for a 50 MW firm, renewable energy project. The Army's Project is anticipated to consist of multiple reciprocating engines to be operated on biofuel for the purpose of ensuring that the Army's critical national security and first responder missions can be carried on, particularly when the utility grid on Oahu has been compromised.

On May 24, 2012, the DCA filed its SOP recommending approval of the waiver application with the condition that any subsequent application associated with the Army's Project provide a comprehensive analysis to evaluate and assess the ratepayer benefits of the project. On August 1, 2012, the PUC issued a Decision and Order approving the waiver, with the condition that HECO provide a comprehensive analysis and address the issues identified by the DCA and the PUC.

***Other Docketed Matters***

*Feed-in Tariff Investigative Proceeding*

On October 24, 2008, the PUC initiated an investigation into the implementation of feed-in tariffs ("FIT") for the service territories of the HECO Companies. On September 25, 2009, the PUC issued a Decision and Order establishing several policy principles that would guide the development and implementation of a FIT program for the HECO Companies' service territories. On October 13, 2010, the PUC issued an order that approved FIT Tiers 1 and 2 tariffs. On November 22, 2011, the PUC issued an order approving FIT Tier 3 tariff with modifications (based on comments from the DCA).

On May 4, 2012, HECO filed a Motion for Clarification Regarding Program Administration Rules. HECO stated that the FIT program was fully subscribed with significant competition for FIT projects. According to HECO, this competition led to accusations amongst some of the developers that others were "gaming" the system. HECO sought to clarify Tier 2 project applications as to what was meant by projects that were "shovel ready." In summary, Solar Hub was being accused by some developers and the Independent Observer ("IO") of "squatting" in the Tier 2 active queue, then selling its position to another mainland developer. The DCA became embroiled in this dispute when the DCA took the position that Solar Hub's application for Tier 2 projects should not be summarily rejected, as recommended by the IO, because Solar Hub had relied upon statements from HECO that Solar Hub's application was "perfect" and met all of the tariff requirements. The DCA recommended that the PUC conduct an evidentiary hearing to

allow the parties and the affected developers to provide evidence of their respective positions. The DCA argued that this process might effectively stave off further litigation and appeals.

On September 14, 2012, the PUC issued a decision and order that ruled on the various motions. The Decision & Order effectively took Solar Hub's projects off the Tier 2 active queue, including projects on farms in Hawaii Kai who would have difficulty paying the new Kamehameha Schools Bishop Estate lease rents without Solar Hub's solar energy PV system. HECO attempted another motion for reconsideration that would have allowed Solar Hub's projects to remain on the active queue, but that motion was subsequently denied by the PUC. Solar Hub appealed these decisions to the Hawaii Intermediate Court of Appeals.

#### *Decoupling Investigative Proceeding*

On October 24, 2008, the PUC initiated a proceeding to investigate the implementation of a decoupling mechanism for the HECO Companies, pursuant to the recommendation of the signatories to the Energy Agreement. Having issued orders that allow each of the HECO Companies to make decoupling filings, the Division has reviewed two decoupling filings for HECO, and one each for HELCO and MECO. Each filing essentially represents a request that is somewhat similar to a general rate increase application and, while the work required for a decoupling filing is somewhat less than a general rate increase application (usually reflecting a nine month schedule), the remaining amount of work must be completed in a very short time frame (a 45-day schedule). The DCA continues to work with the HECO Companies and the PUC to streamline the filings to reduce the overall amount of work by the DCA and PUC, while not foregoing any consumer protections.

#### *HECO Companies Integrated Resources Planning ("IRP")*

On March 1, 2012, the Public Utilities PUC issued an order commencing the HECO Companies IRP process. The goal of the IRP is for the HECO Companies to develop an action plan that governs how the electric utilities will meet energy objectives and customer energy needs consistent with the State's energy policies and goals, while providing safe and reliable utility service at reasonable cost, through the development of resource plans and scenarios of possible futures that provide a broader long-term perspective.

The DCA, by order of the PUC, was made a party to the IRP Advisory Group. The role of the Advisory Group ("AG") is to provide the utility with the benefit of various perspectives in the community by participating in the IRP process and representing diverse community, environmental, social, political, or cultural interests consistent with the IRP's goal. The Advisory Group was selected by the PUC and consists of 68 members, including the DCA. A small sample of AG members is as follows:

Legislature – Sen. Roz Baker, Sen. Mike Gabbard, Sen. Kalani English, Rep. Denny Coffman.  
Environmental groups – Blue Planet, Life of the Land, Nature Conservancy. Businesses – Alexander & Baldwin, Chevron, Tesoro. Community interest groups – Friends of Lanai, Molokai. County – Maui County, Hawaii County, Honolulu County. Education – Punahou Schools. Government – U.S. Dept. of Defense, U.S. Dept. of Energy, DBEDT.

The primary work done in the IRP for FY 2012 involved the selection of the Advisory Group and the Independent Entity (Carl Freedman). Initial work in characterizing existing systems and conditions,

then developing objectives and metrics began at the very end of FY 2012. IRP AG meetings were held in August, September, and October, 2012, to discuss scenarios, forecasts, and resource options.

*Transfer of Island of Lanai's Regulated Utilities as Part of the Sale of the Island*

On June 19, 2012, Castle & Cooke filed an application to the PUC for approval of the indirect transfer of the three regulated utilities on the island of Lana'i – Lana'i Water Company, Inc. (potable water), Manele Water Resources, LLC (sewer treatment), and Lana'i Transportation Services Company, Inc. (bus transport between hotels and airport). The transfer of these utilities was part of the overall sale of the island of Lana'i from Castle & Cooke (David Murdoch) to Larry Ellison, founder of Oracle, who has an estimated net worth of \$36 billion. This application raised controversy, because it included a request for temporary approval within six days to enable the sale to close on June 27, 2012.

On June 21, 2012, Castle & Cooke, Lanai Island Holdings LLC (buyer Larry Ellison), and the DCA entered into a settlement agreement under the following terms:

- The DCA would recommend to that the PUC enter an order of temporary approval of the indirect transfer;
- Neither the DCA nor the PUC waives any of their respective rights for a full and complete review of the application for final approval of the transfer;
- In the event that the PUC does not grant final approval, then the ownership, management, and operations of the three utilities would revert back to Castle & Cooke; and
- Lana'i Island Holdings LLC agrees to make \$10 million in infrastructure improvements over a period of five years as contributions in aid of construction, which means that none of the amounts expended will be paid for by ratepayers.

On June 26, 2012, the PUC approved the temporary transfer of the utilities and accepted the settlement agreement entered into by the DCA, Castle & Cooke, and Lana'i Holdings LLC. Subsequently, on July 16, 2012, the PUC denied Life of the Land's request for intervention and granted Participant status to Lanaians for Sensible Growth. The DCA supports approval of the transfer of assets subject to certain conditions. Lanaians for Sensible Growth also supports approval of the transaction but is currently seeking access to confidential transaction documents. Thus, a final PUC determination is pending.

*Energy Efficiency Portfolio Standards ("EEPS")*

Pursuant to the Energy Agreement signed by the HECO Companies, the State, the DCA, and DBEDT, on March 8, 2010, the PUC initiated an investigation into the establishment and implementation of energy efficiency portfolio standards for the State pursuant to Act 155, SLH 2009, and HRS § 269-96. The PUC filed its Decision and Order No. 30089, on January 3, 2012, in Docket No. 2010-0037, which acknowledged concerns raised by the DCA regarding potential bill impacts. As a result, in the EEPS framework adopted by the PUC, EEPS efforts by the technical working group must work with the DCA to evaluate bill impacts and ensure that consumers are not required to bear unnecessarily high costs associated with the EEPS. The DCA has been actively participating in the EEPS technical working group meetings that have occurred. Associated with this responsibility, the DCA has also been reviewing and commenting on applications filed by the utility companies and the public benefits funds administrator regarding energy efficiency measures to ensure that consumers' interests continue to be represented.

As part of the DCA's efforts in this area, the DCA has also been participating in Docket No. 2007-0323. In Docket No. 2007-0323, the PUC selected the firm that would be the Public Benefits Fund Administrator ("PBFA") responsible for the energy efficiency programs in the HECO Companies' service territories. The PBFA must provide an annual plan of how it intends to use the public benefit funds to support Hawaii's energy efficiency efforts in the HECO Companies service territories. The DCA raised a number of issues with the annual plan for the 2012 program year including, but not limited to: the need to increase efforts in the hard-to-reach market segments, increasing island equity so that neighbor islands realize a better value for their contributions to the public benefits fund, better integration with the HECO Companies' long range planning so that ratepayers' funds are not spent ineffectively on duplicative supply-side and demand-side resources, and providing more data to help decision makers evaluate whether the funds might be best spent.

#### *Reliability Standards Working Group ("RSWG")*

In August 2010, the PUC filed an order approving, with modifications, the HECO Companies' proposal for a RSWG to assist in facilitating the continued movement toward a clean energy future and ensure reliability throughout the HECO Companies' service territories. The DCA, as a member of the RSWG, has participated, and will continue to participate, in meetings, workshops and webinars to address reliability issues to facilitate the interconnection of renewable energy resources to meet the State's sustainability and renewable energy goals.

On September 8, 2011, the PUC initiated an investigation into the implementation of reliability standards for the service territories of the HECO Companies. The PUC initially approved of the development of reliability standards in the PUC's on-going investigation into the establishment of FIT for the service territories of the HECO Companies. (See the PUC's Decision and Order filed on September 25, 2009 in PUC Docket No. 2008-0273, the PUC's investigation into establishing a FIT program for the HECO Companies' service territories; see also the DCA's participation in Docket No. 2008-0273 in the summer of 2011). Since the opening of the proceeding, the DCA, through its designated representative, has been participating in numerous meetings dedicated to the identification of the scope, duties, and responsibilities of the PUC-approved RSWG. As of the end of June 2012, work on and for the RSWG is still on-going. Initially, the PUC required that the work of the RSWG was to be completed by the end of 2012, but on October 18, 2012, the PUC clarified that the recommendations of the RSWG may be finalized in January 2013, with the PUC to open subsequent proceedings, if necessary, to refine and/or implement the RSWG recommendations.

#### *On-Bill Financing*

As a result of Act 204, SLH 2011, the PUC opened Docket No. 2011-0186, on August 15, 2011. In this docket, the PUC intends to investigate whether on-bill financing (where customers are allowed to finance certain types of energy efficiency or renewable capital projects by the actual or estimated savings anticipated from those capital projects through their bills) is a viable financing mechanism that should be implemented in Hawaii. If deemed viable, this type of financing program might facilitate renewable and energy efficiency adoption in markets that have historically proven to be difficult to penetrate. Those markets are the low income and rental markets. The parties to this proceeding have participated in various workshops, as well as discussions with the PUC's consultant.

As a result of the current increase in electricity prices, the HECO Companies proposed its Simply Solar program, which would be a type of on-bill financing program. The PUC's consultants offered a report on the Simply Solar program and the PUC requested that parties offer comments on its consultant's report. After reviewing the HECO Companies' proposed program and the PUC's consultant's report, the Consumer Advocate offered its comments. The PUC has not yet filed its decision on the proposed Simply Solar Program.

*Competitive Bidding Process for 200 MW or More of Renewable Energy Delivered To or On Oahu*

On September 26, 2011, the PUC instituted a proceeding related to HECO's plan to proceed with a competitive bidding process to acquire 200 MW or more of renewable energy to be delivered to or on the island of Oahu. HECO issued a draft Request for Proposal ("RFP") on October 14, 2011. Prospective bidders were required to submit a notice of intent to bid by November 4, 2011. HECO held a technical conference on December 5, 2011 for all interested parties. HECO had originally planned to file its Proposed RFP with the PUC on February 29, 2012; however, HECO had requested an extension of time to submit the Proposed Final RFP until the second quarter of 2012. HECO has yet to file the Proposed Final RFP. Since the opening of this docket, several motions were filed by various parties to intervene followed by HECO's motions objecting to the intervention requests. Several parties have also filed motions to suspend this docket until the IRP process for HECO and its affiliates is complete in Docket No. 2012-0036. Participation in the instant docket is anticipated to be contentious and protracted.

This RFP will include the undersea transmission cable from a renewable energy source from one or more neighbor island to Oahu. The DCA is working with HECO, PUC, DBEDT, and the Lieutenant Governor concerning the scope of the RFP for the undersea transmission cable.

*HECO – Approval of a Commercial Industrial Dynamic Pricing ("CIDP") Pilot Program and Recovery of Program Costs*

On December 29, 2011, HECO filed its application requesting to implement a two-year CIDP Pilot Program and recovery of roughly \$3.7 million in incremental program costs. HECO is requesting: 1) the ability to recruit customers to supply 2 MW of load; 2) program flexibility adjusting per kW levels of technology incentives and demand charge credits, and/or the per kWh levels of buy-through energy prices to meet customer participation targets; and 3) recovery of HECO's incremental costs. The DCA filed its IRs on April 3, 2012.

On June 26, 2012, the DCA filed its final SOP, stating that it did not object to PUC approval of the application, provided the following be included in the Annual Program Modification and Evaluation Report, the Annual Accomplishments and Surcharge Report, and the Final Pilot Program Report: 1) The CIDP Pilot Program's impact on other demand response programs in terms of any duplicative features and results, and any negative consequences to the other programs; 2) A demonstration that the CIDP Pilot Program is the most cost-effective or one of the most cost-effective means to accommodate intermittent renewable sources; 3) Program progress; 4) Objectives achieved; and 5) A detailed explanation of differences in actual program costs compared to the budgeted program costs in the application. The DCA also made other recommended various expense disallowances to eliminate unjustified items.

*HECO and MECO, collectively the HECO Companies – Approval to Defer Stage 2 Inter-Island Interconnection Studies Costs*

On November 30, 2011, the HECO Companies requested expedited approval: 1) to defer outside services costs for Stage 2 Inter-Island Interconnection Studies (“Stage 2 Studies”) (from date of the PUC’s decision and order through 2013) for subsequent PUC review and recovery; and 2) to defer outside services costs for Stage 2 Studies incurred by the HECO Companies from the filing date of the application to the date of the PUC’s decision and order. The DCA filed its IRs on February 14, 2012.

In its SOP filed on April 9, 2012, the DCA did not object to PUC approval to defer outside service costs for Stage 2 Studies. However, the DCA stated that there was insufficient evidence at present to conclude that the estimated costs were reasonable and recommended that the HECO Companies be required to file the appropriate support to justify cost recovery upon completion of Stage 2 Studies. The DCA recommended that the HECO Companies increase its cost recovery period to a time frame greater than the HECO Companies’ suggested 12 months. Also, the DCA maintained that the carrying charge be eliminated. The DCA also recommended that there be no cost allocation at this time. On May 11, 2012, the HECO Companies and the DCA (collectively the “Parties”) filed a settlement letter with the PUC, agreeing that: 1) the Stage 2 Studies are necessary and the HECO Companies would file all necessary documentation to support the reasonableness of any studies’ costs to be recovered; 2) the PUC does not need to determine a specific level of costs as being reasonable at this time; and 3) the recovery period related to the actual Stage 2 Studies costs will be determined in a subsequent proceeding. The PUC has not filed its decision and order as of July 10, 2012.

*HECO – Approval for Expansion of the Residential Direct Load Control (“RDLC”) Program and Recovery of Program Costs*

On April 13, 2012, HECO filed an application to: 1) approve the proposed expansion of the RDLC Program; 2) authorize extension of the proposed expanded RDLC Program for 5 years (2013-2017); 3) enroll an additional 18 MW; 4) replace participants that drop out of the program to maintain program impacts; and 5) recover program costs of about \$33.4 million over the five-year period and associated revenue taxes, through base rates and the IRP Cost Recovery Provision. The DCA filed its IRs on June 1, 2012, but there is continued ongoing work in this proceeding.

*HECO – Approval for Expansion of the Commercial and Industrial Direct Load Control (“CIDLC”) Program and Recovery of Program Costs*

On May 17, 2012, HECO filed an application to: 1) approve the proposed expansion of the CIDLC Program; 2) authorize extension of the proposed expanded CIDLC Program for 3 years (2013-2015); 3) enroll an additional 6 MW; 4) replace participants that drop out of the program to maintain program impacts; 5) approve program modifications; and 6) recover program costs of about \$17.4 million over the three-year period and associated revenue taxes, through base rates and the IRP Cost Recovery Provision. The DCA filed its IRs on June 27, 2012, but there is continued ongoing work in this proceeding.

*HECO Companies’ Request to Establish a Catastrophic Event Provision*

The HECO Companies filed an application, on December 22, 2011, to establish a Catastrophic Event Provision that would allow the HECO Companies to record costs incurred to restore electric utility

service and repair electric facilities caused by a catastrophic event such as a hurricane or tsunami that is declared a disaster by a state or federal authority. Under this provision, the HECO Companies would later seek cost recovery from ratepayers for the repair and restoration costs. The DCA filed its SOP on September 11, 2012, objecting to the HECO Companies' request based on several concerns, such as the potential for double cost recovery, the recovery of improvements and upgrades under the guise of disaster recovery, and the lack of any recordkeeping requirements to facilitate a prudence review. In response to the DCA's objection, the HECO Companies withdrew their application on November 9, 2012.

### *KIUC Financing*

KIUC filed an application, on April 16, 2012, to enter into a new form of agreement with National Rural Utilities Cooperative Finance Corporation ("CFC") for a \$1,300,000 irrevocable letter of credit ("LOC"). The purpose of the LOC is to provide KIUC's fuel supplier with security for KIUC's fuel supply payment obligations. In its SOP, filed on June 27, 2012, the DCA supported the new agreement subject to certain notification requirements. The PUC issued its Decision and Order, on June 29, 2012, approving the LOC agreement and adopting the DCA's notification requirement.

### *Maui Kele Shopping Center, LLC ("MKSC") Request For A Declaratory Ruling*

On October 19, 2011, MKSC filed a petition respectfully asking the PUC to issue a declaratory order confirming that MKSC is not a "public utility" within the meaning of HRS Chapter 269 if MKSC intends to sell electricity generated by a photovoltaic system owned by MKSC and located on its property to three (3) tenants that maintain businesses at the shopping center owned and operated by MKSC.

On December 22, 2011, the DCA submitted IRs to MKSC seeking further support, clarification, and/or information with respect to certain matters presented by MKSC in its petition filed on October 19, 2011. On May 9, 2012, MKSC responded to the IRs issued by the DCA in Docket No. 2011-0329.

On September 13, 2012, the DCA filed a SOP concluding that MKSC is not a "public utility" within the meaning of HRS Chapter 269, provided that MKSC limits its sale of electricity to the three (3) tenants located in the shopping center owned and operated by MKSC. On September 21, 2012, the PUC issued a Decision and Order agreeing with the conclusion reached by the DCA in its SOP, filed on September 13, 2012, and stating that MKSC will not be a "public utility" within the meaning of HRS Chapter 269, so long as the facts presented by MKSC in its petition remain true and accurate.

### *TGC's Request to Refinance Debt and Obtain New Debt*

On April 5, 2012, TGC filed an application seeking approval for two transactions: 1) to refinance loans of \$180,000,000, and 2) to enter into a new \$60,000,000 revolving credit facility which would be used for capital expenditures and short-term working capital needs. Since TGC sought an expedited review of the refinancing transaction, the PUC authorized a bifurcated proceeding establishing separate procedural schedules for the refinancing transaction and the credit facility. Based on its analysis of the terms and conditions of the proposed refinancing transaction, the DCA supported the refinancing and the credit facility, subject to certain conditions. The PUC approved TGC's application and adopted the DCA's conditions in its Decision and Order, filed on June 12, 2012 and October 5, 2012.

*Eligible Telecommunications Carrier Designation and Annual Certification*

The FCC's efforts to comprehensively reform and modernize the universal service and inter-carrier compensation systems have significantly impacted the State's review of applications related to eligible telecommunications carrier's ("ETC") designation and annual certification processes. Among the changes introduced are the inclusion of broadband as a supported service and the transition for Hawaii carriers from the legacy high cost support mechanisms to the Connect America Fund ("CAF").

The DCA considered these reforms and changes in its review of ETC designation and annual certification applications received in FY2012. In addition, the DCA is coordinating the efforts in Docket No. 2011-0052 to propose amendments to the review criteria, relating to these reforms and changes, for the PUC's annual ETC certification requirements with the goal of enabling a more stringent review to ensure that the Universal Service Fund ("USF") support (both high cost and low income) has been and will continue to be used for its intended purposes.

In August 2011, the DCA issued its support for the approval of applications for annual ETC certification of Coral Wireless, LLC dba Mobi PCS ("Mobi"), T-Mobile West Corp. ("T-Mobile") and Sandwich Isles Communications, Inc. ("SIC"). The PUC approved all three applications. In September 2011, the DCA issued its support for the application of Pa Makani dba Sandwich Isles Wireless ("Pa Makani") which was seeking designation by the PUC as an ETC. The PUC designated Pa Makani as an ETC in April 2012.

During FY2012, the DCA received three (3) applications, by wireless service providers, requesting PUC designation as a Lifeline only ETC. In FY2012, the DCA completed its review and is in support of the applications of YourTel America Inc. ("YourTel") and Pinnacle Telecommunications Group, LLC ("Pinnacle"), while the DCA's review of TracFone Wireless, Inc. ("TracFone") was completed near the start of FY2013. Lifeline provides a discount to low-income households (one per household). Lifeline ETCs theoretically compete for the same USF support dollars. While abuse can occur at the carrier level, it seems more likely to occur at the subscriber level.

In addition to the requests for ETC designation received in FY2012, applications for annual ETC certification have been filed by Mobi, T-Mobile, SIC<sup>4</sup>, Pa Makani and Hawaiian Telecom, Inc. ("HTP").<sup>5</sup> This year was the first year HTI was required to file for an annual ETC certification due to a change in the PUC's annual filing requirements. As a result of the FCC's USF reforms, the DCA's review now include assessments of the ETC's broadband plans and whether the carrier's use of USF support for the previous calendar year, as well as for the coming calendar year, was/will be used for its intended purpose.

*Pest Control Operators Exemption Analysis*

<sup>4</sup> The FCC is still considering SIC's petition for waiver from section 54.302 of the FCC's rules, which establishes a total limit on high-cost universal service support of \$250 per line per month. See Sandwich Isles Communications, Inc. Petition for Waiver of Section 54.302 of the Commission's Rules, WC Docket No. 10-90 and WT Docket No. 10-208 (filed Dec. 30, 2011); see also *Connect America Fund* et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*); 47 C.F.R. § 54.302.

<sup>5</sup> SIC and Pa Makani initially sought to receive their 2012 annual ETC certification from the Department of Hawaiian Home Lands, but several months later submitted applications requesting annual ETC certification by the PUC.

As a result of Act 141, SLH 2004, Hawaii's One Call Center was established. The purpose of One Call is to provide a single location where excavators could call to verify the location of underground facilities to mitigate the damage and service interruption that might otherwise occur when excavation might damage underground utility infrastructure. However, Act 72, SLH 2009, allowed pest control operators a temporary exemption from the One Call requirements on the assertion that the One Call requirements should not apply. In the SLH 2012, the pest control operators sought to make the exemption permanent, but due to concerns that were raised, the PUC is investigating in Docket No. 2012-0043 whether it is reasonable to allow the exemption to be made permanent. The DCA is participating in this investigation and has submitted various IRs to pest control operators and the utility companies to assess whether consumers' interests would be adversely affected if the One Call exemption were made permanent.

### *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, SLH 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, SLH 2004, also established a Wireless Enhanced 911 Board that oversees the collection and distribution of money collected by the E-911 special fund designates the Executive Director of the DCA as a member of the board. The DCA through its Executive Director 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, HRS, Act 141, SLH 2004. This advisory committee was integral in developing the request for proposals for a vendor to operate a "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 Executive Director of the DCA is a member of the Hawaii Energy Policy Forum (HEPF), which is a collaborative organization of the University of Hawaii at Manoa. HEPF consists of members from the business, government, and regulatory communities. Meetings are held quarterly to discuss Hawaii's energy needs for both electricity and transportation. HEPF provides support to other organizations, such as the Hawaii Clean Energy Initiative Steering Committee. In FY 2012, the DCA took an active role in the meetings providing input to HEPF concerning consumer concerns in the regulatory process before the PUC and the difficulties facing the state in achieving reliable electricity service at reasonable rates.

*Hawaii Clean Energy Initiative (“HCEI”)*

On January 31, 2008, the State of Hawaii and the United States Department of Energy (“U.S. DOE”) launched the HCEI, 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.

As part of HCEI, the Executive Director of DCA also participates in the Steering Committee, which deals with the high level planning associated with various aspects of the technical committees that are analyzing various areas (electricity, end-use efficiency, transportation, fuels, and outreach) that are expected to be integral to the success of HCEI.

The DCA also participates in the Technical Advisory Group (“TAG”) that is responsible for evaluating the energy efficiency process that has been transitioned from the HECO Companies to a third-party administrator. As part of this process, the TAG currently meets on a quarterly basis and evaluates various aspects of the measures being implemented to help plan, evaluate, and implement energy efficient programs in the service territories of the HECO Companies. Using the monies collected through the Public Benefits Fund surcharge, the TAG evaluates the use of the monies to help Hawaii’s efforts to reduce its over-reliance on imported fossil fuels.

*Education and Outreach*

During the past year, the DCA has continued to focus 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. In addition to attending community fairs, the division publishes its own newsletter and plans to increase the frequency of new publications in moving forward.

*Interactive Participation with Other State Agencies*

*DBEDT’s Hawaii’s Electric Vehicle (“EV”) Rebate Program*

The DCA, on behalf of DCCA, continued to administer DBEDT’s EV Rebate Program, which has given Hawaii residents and businesses nearly \$2.2 million in cash back. To date, more than 500 applications were received since the State paid out the first rebates in May. In October 2010, the DCA’s Education Specialist was assigned as the Electric Vehicle Rebate Project Administrator. The time spent by the DCA’s Education Specialist to work on the EV Rebate Program took away from his duties within the division (and DCCA), and therefore was billed to DBEDT.

While originally slated to conclude in September 30, 2011, DBEDT extended the rebate program three times. While DBEDT has declared the program over with the depletion of funds, the DCA will need to continue to spend time wrapping up the project. The final checks were issued in July 2012; however, 1099-MISC tax forms will need to be furnished to affected rebate recipients by January 31, 2013.

**Financial Summary**

The CRF financial summary relating to DCA for fiscal year 2011 - 2012 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,095,566	\$1,030,654	\$2,126,220	\$3,024,838

**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. These efforts place the DCA 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.