

## 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 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 16 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, Hawaii 96809; phone number, 586-2800; internet address, [cca.hawaii.gov/dca/](http://cca.hawaii.gov/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).

## **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 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 adopt settlements reached amongst the parties to a proceeding, 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 generally 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 Fiscal Year 2013, 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. Below is a summary of the more significant matters in which the DCA was involved.

***Rate Cases***

*Hawaiian Electric Company, Inc.'s ("HECO") 2009 Rate Case  
(Docket No. 2008-0083)*

HECO's 2009 test year application was filed on July 3, 2008, but certain issues related to this docket were still unresolved in FY 2013. In January 2013, the DCA was able to secure a stipulation with HECO that resolved outstanding issues related to cost recovery issues pertaining to HECO's Campbell Industrial Park CT-1 unit, as well as a new customer information system that serves HECO, Hawaii Electric Light Company, Inc. ("HELCO") and Maui Electric Company, Limited ("MECO") (collectively, the "HECO Companies"). The HECO Companies agreed to write off \$40 million from the total costs associated with the CT-1 and CIS projects, as well the withdrawal of the HELCO rate case, wherein HELCO was seeking an increase of \$19.6 million, and the deferral of a HECO rate case filing that was expected in mid-2013. Now, HECO has agreed that it will not file that request until January 2014, at the earliest.

The PUC approved the stipulation in its Order No. 31126 filed on March 19, 2013 and closed the docket.

*MECO's 2012 Test Year Rate Case (Docket No. 2011-0092)*

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, fully participated in this proceeding wherein it attended hearings on Maui, Lanai, and Molokai, conducted inspections of company facilities and witness interviews, and conducted extensive discovery. In its direct testimony, the DCA recommended numerous adjustments and a lower overall increase in the revenue requirements. Subsequently, 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.

On May 31, 2013, the PUC filed its Decision and Order No. 31288, wherein portions of the settlement were accepted but the PUC made additional adjustments, where it further reduced the overall increase in revenue requirements to \$5,334,000, instead of the proposed settled upon amount of \$13,089,000. In June 2013, MECO filed motions for a partial stay as well as partial reconsideration and clarification of the PUC's Decision and Order. The PUC denied those motions in July 2013.

*HELCO's 2013 Test Year Rate Case (Docket No. 2012-0099)*

On May 1, 2012, HELCO filed an application seeking an increase of \$19.6 million and to amend its rules. Through January 2013, the DCA fully participated in this proceeding wherein it attended public hearings at Hilo and Kona, conducted inspections of company facilities and witness interviews, and conducted extensive discovery.

As mentioned in the discussion of the HECO 2009 test year rate case, the DCA entered into a stipulation to resolve a number of issues, which included the withdrawal of HELCO's requested increase in Docket No. 2012-0099. Since the stipulation was approved, HELCO withdrew its 2013 Test Year application and HELCO agreed that a new application will not be filed until 2016, at the earliest.

*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. DCA and Pukalani completed settlement negotiations on December 20, 2012 and agreed to a rate increase of 107% that would be implemented in three phases over a 24-month period. A PUC decision has not been issued.

*Waikoloa Resort Utilities, Inc., dba West Hawaii Utility Company ("WHUC")  
June 30, 2013 Test Year Rate Case*

WHUC filed an application on August 28, 2012 to obtain rate increases of (1) 50% for potable water service, (2) 165% for wastewater service, and (3) 50% for irrigation service. The requested rate increases would result in additional revenues of \$884,994 for potable water service, \$3,140,795 for wastewater service and \$107,982 for irrigation service. WHUC serves residential, multi-family, hotel and

commercial customers in the Waikoloa Beach Resort area in South Kohala, island of Hawaii. WHUC requests a rate increase to recover the construction costs of the new drinking well and wastewater treatment plant as well as higher operating expenses. The DCA is currently preparing its testimony and expects to file its testimony in August 2013.

*Waikoloa Water Co., Inc., dba West Hawaii Water Company ("WHWC")  
June 30, 2013 Test Year Rate Case*

On August 28, 2012, WHWC filed an application seeking a rate increase of 119% to generate additional revenues of \$784,387 over present rates for potable water service provided to residential, condominium and commercial customers in the Waikoloa Village area in South Kohala, Hawaii. WHWC is requesting cost recovery for the construction of a new drinking well and higher operating expenses. On February 19, 2013, the DCA filed its testimony recommending a 59% rate increase since it appeared the new drinking well would not be operational during the test year. Settlement negotiations are being finalized to resolve the remaining outstanding issues.

*Waikoloa Sanitary Sewer Co., Inc. dba West Hawaii Sewer Company ("WHSC")  
June 30, 2013 Test Year Rate Case*

WHSC filed an application on August 28, 2012, requesting a 142% rate increase equal to \$1,378,084 over revenues at present rates for wastewater service provided to residential, condominium and commercial customers in the Waikoloa Village area in South Kohala, Hawaii. WHSC is requesting a rate increase to cover the cost of a new wastewater treatment plant and higher operating expenses. The DCA filed its testimony on January 16, 2013 recommending a 31% rate increase. WHSC and the DCA are currently in settlement negotiations to resolve issues related to excess capacity in the new plant.

***Biofuel Supply Contracts***

*Aina Koa Pono-Ka'u LLC ("AKP") Biodiesel Supply Contract with HELCO*

On January 6, 2011, 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. In accordance with the state policy of supporting biofuels and the transition to a clean energy economy, the DCA supported the proposed contract. However, on September 29, 2011, the PUC issued a Decision and Order denying the application. 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.

The DCA conducted discovery and filed its written testimonies and exhibits in the docket that supported approval of the revised biodiesel supply contract with AKP and also recommended that HELCO be allowed to recover the costs incurred under the revised AKP biodiesel supply contract through HELCO's ECAC, as appropriate, but only up to the costs of the displaced fossil fuels. The DCA also recommended that any incremental higher cost associated with the contract with AKP should be recoverable from HECO customers. The DCA offered analysis looking at long-run comparative costs and the positive impacts associated with encouraging biofuel production activities on the island of Hawaii to help justify the reasonableness of the proposed contract.

To date, proceedings in Docket No. 2012-0185 are still ongoing.

*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 Statement of Position ("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 Hawaii Administrative Rules ("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.

On December 13, 2012, the PUC issued a decision and order approving the biodiesel supply contract with PBI in the docketed proceeding. Accordingly, HECO is permitted to procure biodiesel from PBI under the terms and conditions stated in the PBI biodiesel supply contract dated June 15, 2011.

*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. An amended Procedural Order was approved by the PUC on December 17, 2012.

Through the use of internal and consultant resources, the DCA conducted discovery and evaluated the reasonableness of the proposed contract, including the terms and conditions, and price and price premiums associated with the proposed biofuel supply contract. Subsequently, the DCA filed direct testimony on January 25, 2013, recommending approval and also participated in subsequent discovery on the parties' and participants' written testimonies.

On October 11, 2013, the PUC issued a Decision & Order approving the biofuel supply contract.

*Fossil Fuel Supply Contracts*

*HECO's Low Sulfur Fuel Oil ("LSFO") Supply contracts w/Chevron & Tesoro*



(Docket No. 2012-0217)

On August 31, 2012, HECO filed an application requesting the PUC to, among other things, approve the New Chevron LSFO Contract, dated August 24, 2012, and the New Tesoro LSFO Contract, dated August 28, 2012.

The DCA conducted discovery and in its SOP, while the DCA voiced certain concerns, the DCA ultimately did not recommend rejection of the requested relief. However, the DCA recommended HECO file a report with the PUC regarding notification of contract extension, the price being paid by HECO and the status of HECO's efforts to find alternative fuel sources. On December 31, 2012, the PUC approved the LSFO Supply Contracts on an interim basis and on April 30, 2013 the PUC issued its Final Decision and Order approving HECO's application and adopted the DCA's recommended conditions.

*Unitek Solvent Services, Inc. ("Unitek") Fuel Oil Purchase Contract with  
Kauai Island Utility Cooperative ("KIUC")*

On September 7, 2012, KIUC filed an application respectfully asking the PUC to, among other things:

1. Approve a fuel oil purchase contract with Unitek, dated September 7, 2012; and
2. Authorize KIUC, pursuant to HAR § 6 60 6(2), to include the costs incurred under the fuel oil purchase contract in KIUC's Energy Rate Adjustment Clause ("ERAC") to the extent such costs are not recovered in KIUC's base rates.

After conducting discovery in the docketed matter, on January 24, 2013, the DCA filed a SOP recommending that the PUC:

1. Approve the fuel oil purchase contract with Unitek in the docketed proceeding; and
2. Allow KIUC to recover the costs incurred under the fuel oil purchase contract through KIUC's ERAC to the extent such costs are not already recovered in KIUC's base rates.

On February 8, 2013, the PUC issued a decision and order approving the fuel oil purchase contract with Unitek in the docketed proceeding. Accordingly, KIUC is permitted to procure specification used oil from Unitek under the terms and conditions stated in the Unitek fuel oil purchase contract dated September 7, 2012.

*The Gas Company, LLC dba Hawaii Gas (Docket No. 2013-0101)*

On April 30, 2013, The Gas Company, LLC, dba Hawaii Gas ("Hawaii Gas") submitted an application requesting that PUC approve a new supply contract on an expedited basis. Due to the impending closure of the Tesoro refinery, Hawaii Gas' naphtha supply, which is the supply source of the synthetic natural gas that Hawaii Gas produces, was in jeopardy.

On May 20, 2013, the DCA filed a SOP that did not object to the continuation agreement subject to the adoption of the recommended reporting requirements. On May 29, 2013, the PUC approved Hawaii Gas' application and adopted the DCA recommended reporting conditions.

*MECO Terminalling Agreement (Docket No. 2013-0083)*

On April 5, 2013, MECO submitted its application to the PUC requesting approval of a new terminalling agreement with Aloha Petroleum, Ltd. and to include the costs of the new agreement in MECO's ECAC with the intent to renew the current contract, which was due to expire.

The DCA conducted discovery, but there is continued ongoing work in this proceeding.

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

***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) megawatt ("MW") photovoltaic ("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. The PUC issued its Decision and Order on November, 29, 2012, approving the application subject to certain conditions contained in its Order.

***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.

The DCA participated in the discovery processes and on May 25, 2012, the DCA filed its SOP recommending approval of the MP2 PPA. The PUC approved the application in its Decision and Order on December 5, 2012.

***Honolulu Program of Waste Energy Recovery ("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 46MW 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 DCA's contested term and condition in the H-Power amended and restated PPA and provided a revised Amendment No 1 to the PPA on November 15, 2012. The PUC approved the Amended and Restated Power Purchase Agreement For Renewable Firm Energy and Capacity on January 17, 2013.

***Hu Honua Bioenergy, LLC ("Hu Honua") Power Purchase Agreement With HELCO (Docket No. 2012-0212)***

On August 30, 2012, HELCO filed an application asking the PUC to, among other things, approve the renewable dispatchable firm energy and capacity PPA between HELCO and Hu Honua and authorize HELCO to include the costs incurred under the PPA in HELCO's ECAC and Purchase Power Adjustment Clause. In its application, HELCO also requested the PUC to authorize transfer of the retired Pepeekeo Substation to Hu Honua and to determine construction of five 69 kW lines should be above the ground pursuant to HRS § 269-27.6(a). The Hu Honua Project proposes to convert the former Hilo Coast Power Company coal-burning power plant into a renewable biomass electric power generating facility with a committed capacity of 21.5 MW, the contracted net maximum output, with a potential capability for a net output of up to 28 MW.

The DCA conducted discovery and filed its SOP that supported HELCO's application, but raised a number of issues, including concerns as to the adequacy of HELCO's evidence in support of the PPA price and in comparison to the pricing of other recently approved renewable energy PPAs.

Additional discovery was subsequently conducted and the DCA filed a reply SOP on May 7, 2013, that again supported HELCO's application, but raised concerns that are to be addressed in future proceedings as recommended in the final report filed of the Reliability Standards Working Group ("RSWG") Docket No. 2011-0206. The PUC's Decision and Order is pending concerning the Hu Honua PPA.

*KIUC Renewable Solutions Two LLC ("KRS Two") PPA (Docket No. 2012-0383)*

On December 19, 2012, KIUC filed an application with the PUC for approval of certain financing arrangements, which included among other things, a waiver of the PUC's General Order No. 7 with respect to the commitment of funds for the development and construction of a fourteen (14) MW PV solar energy project to be located in Koloa, Kauai by KIUC's wholly owned subsidiary KRS Two.

On April 10, 2013, the DCA filed its SOP recommending approval of the KRS Two project. On June 19, 2013, the PUC issued a Decision and Order approving the KRS Two PPA.

*AES Competitive Bid Exception (Docket No. 2012-0197)*

On August 13, 2012, HECO sought a ruling from the PUC to interpret the provisions of the Framework for Competitive Bidding to allow AES (180 MW coal-fired generation plant) to amend its current power purchase agreement and increase its energy sales to 186 MW. Pursuant to a request from AES, HECO further sought to also initiate renegotiations of the power purchase agreement prior to the end of its current energy contract. The DCA conveyed in its SOP that the Framework for Competitive Bidding in Docket No. 03-0372 specifically provided exceptions for increasing firm capacity and seeking to renegotiate the power purchase agreement. In its decision and order, the PUC agreed and pursuant to the Consumer Advocate's position, added annual reporting requirements for HECO regarding AES's status.

*Application for Approval of Waiver from the Competitive Bidding ("CB") Framework for Five Projects selected as part of HECO's Invitation for Low Cost Renewable Energy Projects on Oahu. (Docket No. 2013-0156)*

On June 18, 2013, HECO filed an application for a waiver from the CB Framework for five (5) projects on Oahu. The CB Framework was adopted by the PUC on December 8, 2006, in Docket

No. 03-0372, to establish a process by which new large-scale generation would be built and acquired. The five projects, for which HECO seeks a waiver, represent a possible total addition of 64 MW of intermittent renewable energy and include four solar projects and one wind project. The average price for these five projects is 15.9 cents per kwh, which is significantly lower than the most recently approved PPA prices for other wind and solar projects in Hawaii. These projects were solicited by HECO pursuant to a notice for an invitation for low cost renewable energy projects on Oahu. HECO agreed to seek a waiver from the PUC from the CB Framework if developers met certain conditions that included pricing below 17 cents per kwh; evidence of site control; evidence of community outreach; and an agreement by the developer to disclose actual financial information.

DCA conducted discovery on HECO to insure that HECO's solicitation and selection process was fair and reasonable. On September 16, 2013, the DCA submitted its Statement of Position supporting HECO's request for a waiver from the CB Framework for these five projects.

*PUC Investigation for Oahu 200 MW Renewable Energy Request for Proposal  
(Docket No. 2011-0225)*

On September 26, 2011, the PUC issued an order related to HECO's plan to acquire approximately 200 MW of renewable energy to be delivered to or on the island of Oahu. The purpose of opening this docket was to comply with the Framework for Competitive Bidding adopted by the PUC in Docket No. 03-0372. HECO drafted a Request for Proposal ("RFP") for 200 MW of renewable energy and an undersea transmission cable (200 MW RFP) with input from the DBEDT and interested stakeholders.

On July 11, 2013, the PUC issued a series of orders concerning the 200 MW RFP. First, the PUC recommended that HECO delete all references in the 200 MW RFP to a Maui/Oahu undersea cable and the Lanai Wind project that is subject to a term sheet entered into between Castle & Cooke and HECO. The PUC then opened an investigative docket to determine whether a Maui/Oahu undersea transmission cable was in the public interest and a second investigative docket concerning the Lanai Wind project. At present, the 200 MW RFP, the Oahu/Maui investigation, and the Lanai Wind investigation are all still pending before the PUC.

***Other Docketed Matters***

*Liquefied Natural Gas ("LNG") Update*

DCA continues to monitor the progress of both HECO and Hawaii Gas in their respective efforts to import LNG to the State of Hawaii. With mainland natural gas prices remaining low, the potential for Hawaii consumers to see reduced electricity rates with the importation of LNG remains a viable option. Analysis provided by HECO in the Integrated Resource Planning ("IRP") docket indicates that LNG is a cost-effective means by which HECO could comply with the EPA's new air quality standards and at the same time effectively lower customers' electricity bills.

HECO is narrowing its focus on LNG to a floating storage & re-gasification unit ("FSRU") with a ship-to-ship transfer at a site located in Middle Lock, Pearl Harbor Naval Shipyard. Hawaiian Electric is in discussions with the United State Navy for this project.

Hawaii Gas withdrew its application with the PUC for its planned Phase 1 of a three-phase LNG import plan. The need for small-scale shipments of LNG in ISO containers in Phase 1 was no longer needed when Tesoro entered into an agreement with Par Petroleum for the purchase of Tesoro's refinery and all other operations. Hawaii Gas was therefore assured of a continued supply of naphtha from the refinery, which Hawaii Gas uses to manufacture synthetic natural gas. Hawaii Gas will move forward with Phases 2 and 3, which will transition the importation of LNG from ISO containers to LNG tankers. Hawaii Gas considers an onshore storage and re-gasification unit at Barber's Point to be the optimal site to supply HECO and Hawaii Gas with natural gas. Hawaii Gas is also considering a small FSRU that might be located in Kalaeloa Harbor.

DCA is acting to facilitate discussions between HECO and Hawaii Gas. At some point, both utilities will need to come together to make key policy decisions: (1) Where should the storage and re-gasification unit be sited? (2) Should there be any onshore storage and re-gasification units or should it be offshore? (3) How will the LNG import terminal operator be selected – competitive bidding or other process? (4) What will be the purchasing arrangement for the two utilities in negotiating supply contracts – joint venture?

#### *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).

In 2012, additional activity related to efforts to clarify the program's rules caused significant activity such as motions and other filings from various interested parties, including the HECO Companies, the DCA, the PUC, and interested FIT applicants. On September 14, 2012, the PUC issued a decision and order that ruled on the various motions. The Decision & Order effectively removed certain FIT 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 the revenues expected from the proposed FIT solar energy PV systems. 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. These appeals were denied in 2013.

#### *Decoupling Investigative Proceeding*

As a result of Docket No. 2008-0274, the PUC approved a decoupling cost recovery mechanism for the HECO Companies, pursuant to the recommendation of the signatories to the 2008 Energy Agreement. Decoupling is the process of allowing the HECO Companies' to diminish the impact that changes in sales have on revenues. Thus, on an annual basis, each of the HECO Companies files a tariff to either return to or collect from customers the difference between actual revenues and the target level of revenues that is set in a rate proceeding. In FY 2013, each of the HECO Companies made their annual decoupling tariff filing and the DCA utilized internal and consultant resources to review the decoupling filings for each of the

HECO Companies and made various recommended adjustments that were generally adopted by the companies and the PUC.

On May 31, 2013, the PUC filed Order No. 31289 in Docket No. 2013-0141, which opened a new generic proceeding to reexamine the existing decoupling mechanisms for the HECO Companies. It is anticipated that this action will trigger a similar amount of work that was incurred during Docket No. 2008-0274 and have an impact on the HECO Companies and their ability to support the transition to a clean energy industry.

#### *HECO Companies IRP*

On March 1, 2012, the 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 was one of the 68 members of 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. Besides the DCA, the Advisory Group was selected by the PUC and meant to represent a broad sample of interested stakeholders. A small sample of AG members is as follows:

Legislature – Senator Roz Baker, Senator Mike Gabbard, Senator Kalani English, Representative 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, Environmental Protection Agency.

The DCA participated in all of the AG meetings and, through the use of internal and consultant resources, the DCA offered various comments and recommendations. The DCA also engaged in separate meetings with various stakeholders, including the HECO Companies to discuss policy and technical questions and issues. The DCA also worked with relevant stakeholders to also facilitate the planning of agendas for AG meetings.

On June 28, 2013, the HECO Companies released their Action Plan (five year horizon), as well their 20-year horizon plan. Those plans represented well over 2,000 pages of technical analyses and discussion that reflected potential actions that might or could be taken to achieve the statutory goals of the renewable and energy efficiency portfolio standards, as well as to analyze additional issues identified by the PUC or AG members. Some of the key points identified or discussed in the HECO Companies' Action Plan included the probable retirement of certain fossil fueled generation, the introduction of new renewable resources (both firm and intermittent), consideration of the possibility of using liquefied natural gas to help lower the costs of electric service, the cost and need for the interisland cable between Oahu and certain neighbor islands, environmental impacts, as well as various other possibilities and factors. The DCA and its consultants pored through the plans to review their reasonableness and submitted comments in July 2013

on the action plan. The DCA and its consultants continue to review the documents and perform analyses to facilitate further work anticipated to be required in the upcoming stages of work in this proceeding.

*Young Brothers, Limited's ("YB") Application for Zone of Reasonableness ("Zone Program") / Annual Freight Rate Adjustment ("AFRA")*

The Zone Program was a result of an application originally filed on October 1, 2001, but was terminated by the PUC effective June 3, 2011 because of its concern that YB's trend of seeking annual rate increases by filing back-to-back applications for a rate case or Zone Program adjustment was not in the public interest. On September 20, 2012, in Docket No. 2012-0231, YB filed its application entitled "Application to Reinstitute Zone of Reasonableness Program Established", which would allow YB to annually adjust its rate within a zone of reasonableness without having to file and process a rate case. The DCA participated in a discovery process as well as participated in informal meetings with YB. YB withdrew its application on November 21, 2012, which the PUC approved in its Order No. 30852, on November 29, 2012.

On February 11, 2013, YB filed an application requesting PUC approval to establish an AFRA as a three-year pilot program during 2013 to 2015. YB described the proposed AFRA as a "formulaic approach to setting rates" based on a calculation that uses data from the most recent PUC approved test year revenue requirement with updates for certain revenue requirement components and annual rate adjustments would be based on a comparison between actual revenues for the most recent calendar year and the computed AFRA revenues. Rate adjustments under the proposed AFRA would be capped at 5.5% for both increases and decreases.

In its SOP filed on May 5, 2013, the DCA recommended PUC rejection of YB's application since YB failed to explain how the proposed AFRA benefits customers and is consistent with the public interest. The DCA also questioned the need for an automatic revenue adjustment clause, as well as observing that YB did not establish cost containment measures for expenses, had not developed metrics to evaluate the pilot program, and did not address the PUC's concerns expressed in its Order that terminated the Zone Program. YB filed its rebuttal SOP on May 10, 2013.

*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. Once the interim approval was granted, this allowed additional time for the DCA to conduct further analyses into the reasonableness of the transaction. In the SOP filed by the DCA, filed in November 2012, the DCA recommended that the PUC continue to find that the transaction was in the public interest but that the PUC should adopt certain conditions. In December 2012, the DCA and Castle & Cooke entered into an additional settlement, which incorporated the requirement of \$10 million in contributions in aid of construction, as well as other most of the conditions that were recommended by the DCA. In February 2013, the PUC filed Decision and Order No. 30998, which essentially adopted the settlement reached by the parties, including but not limited to: the installation of a master meter near the production wells to better manage the water resources; none of the transaction or transition costs would be recovered from ratepayers; and the Lanai utility companies would work with the County of Maui to develop a water conservation plan.

#### *Energy Efficiency Portfolio Standards ("EEPS")*

Pursuant to the 2008 Energy Agreement, on March 8, 2010, the PUC initiated an investigation into the establishment and implementation of energy efficiency portfolio standards for the State. 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 2013 program year that included some of the issues that have been raised in previous years, such as: the need to increase efforts in the hard-to-reach market segments, 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. In the comments offered for the 2013 annual plan, the DCA also raised the issue of “stranded” customers who, because they are unable or unwilling to pay for distributed generation, such as photovoltaic systems on their roofs, will be left with ever increasing allocations of the electric utility cost of service (including the PBF surcharge), the issue related to whether the PBFA should be focusing on trying to use more of the money on program and customer incentives instead of administrative costs, and the need to re-evaluate the level of “free ridership,” which is where customers who would have made energy efficiency investments even without any additional incentive are being paid those incentives, which reduces the amount of money available for other purposes.

#### *Reliability Standards Working Group*

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. On September 8, 2011, the PUC initiated an investigation into the implementation of reliability standards for the service territories of the HECO Companies and established the RSWG. 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, as a member of the RSWG, rigorously participated, in meetings, workshops and webinars dedicated to the identification of the scope, duties, and responsibilities of the PUC-approved RSWG.

In January 2013, the RSWG concluded its work by conducting its last meeting. In March 2013, the Independent Facilitator filed a 747-page report that submitted the RSWG’s final work products to the PUC for consideration and potential adoption. In May 2013, the PUC’s Technical Review Committee submitted a report offering its comments on the RSWG proceeding and its recommendations to the PUC on the Independent Facilitator’s report. The DCA filed comments to both reports. The results of this process were generally positive, but additional studies and analyses need to be conducted to support informed decisions on future steps to address the issues raised in this proceeding.

#### *On-Bill Financing*

As a result of Act 204, SLH 2011, the PUC opened Docket No. 2011-0186, on August 15, 2011, to investigate whether on-bill financing is a viable financing mechanism that should be implemented in Hawaii. There were various workshops and discussion involving the parties and the PUC’s consultant. On February 1, 2013, the PUC, in Order No. 30974, determined that an on-bill financing program for all electric utility customers in the Hawaii is viable, contingent upon the details of the on-bill financing program design. The PUC also determined that, rather than approve HECO’s proposed Simply Solar Pilot Program, a working group comprised of Parties and Participants from Docket No. 2011-0186, financial institutions, representatives of target on-bill financing customer groups, and other contributing entities should collaboratively work towards the development of an on-bill program that would target the hard-to-reach low income and rental customer markets.

The On-Bill Financing working group has been meeting regularly to discuss various policy, technical, and legal issues associated with the creation, funding, and administration of an on-bill financing program in order to make recommendations related to program design, operating procedures, program evaluation, measurement, and the integration into the EEPs goals. The DCA has been utilizing internal and consultant resources to monitor and offer appropriate comments to help address issues that may arise, including whether the program will actually benefit the target markets and the potential impact on non-participant customers. With the overall target of having a program ready for implementation in early 2014, a Request for Proposal to solicit bids for a Finance Program Administrator ("FPA") for the On-Bill Financing Program was issued with the selection of the FPA to occur by the end of calendar year 2013.

Independent of the On-Bill financing docket, DBEDT developed an on-bill program that would utilize financial securitization concepts to lower financing costs for of any on-bill program. The securitization concept resulted in Act 2011, SLH 2013, relating to green infrastructure, which was the enabling legislation to support the use of securitization to decrease financing costs for renewable energy and energy efficient projects. The DCA supported the legislation through written and oral testimony.

*Eligible Telecommunications Carrier ("ETC") Designation and Annual Certification*

Through the Federal Universal Service Fund ("USF") program, certain telecommunications carriers receive monetary aid to facilitate the provision of services consistent with policies established by the FCC. As a result of concerns related to the USF program, the FCC sought to comprehensively reform and modernize the program, which significantly impacted the PUC's review of applications related to ETC designation and annual certification processes. Among the changes introduced are the inclusion of broadband as a supported service and the transition for carriers from the legacy high cost support mechanisms to the Connect America Fund.

Even before the FCC filed its reform orders, the DCA sought modifications to ensure that the target markets were receiving the benefits of the Federal funds that were being directed to Hawaii. As a result of DCA concerns and the FCC reform orders, the DCA was responsible for coordinating 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 USF for both high cost and low income markets will be used for its intended purposes.

Docket No. 2011-0052 is still ongoing, but a new docket has been opened related to ETC designations. On March 27, 2013, the PUC initiated an investigation in Docket No. 2013-0066 to determine whether state designated ETCs that are participating in the federal USF high-cost support program should be certified by the PUC in 2013 pursuant to 47 C.F.R. § 54.314(a).

*Keamuku-Keahole 6800 69kV Line Reconstruction Phase 1  
(Docket No. 2012-0392)*

On December 28, 2012, HELCO filed an application asking the PUC to approve the commitment of funds estimated at approximately \$6.2 million to reconstruct and reconnector one of the segments of the cross-island transmission between Keamuku and Keahole switching stations on the island of Hawaii. The proposed project is Phase 1 of a four-phase project in which reconstruction and reconnector of the remaining sections of the 6800 line (i.e., Phases 2 through 4) is the subject of another proceeding.

The DCA participated in a discovery process and filed its SOP in August 2013 addressing issues related to the reasonableness of the project. The DCA took the position that the reduction in transmission losses, efficiencies associated with operation and maintenance expenses, and operational dispatch should be reflected and captured to benefit HELCO's ratepayers.

*Kahe 5 and Kahe 6 Turbine Control System Upgrade (Docket No. 2012-0218)*

On August 31, 2012, HECO filed an application asking the PUC to approve the commitment of funds estimated at approximately \$8.0 million to upgrade the turbine control systems of its Kahe 5 and Kahe 6 generating units. DCA evaluated the need for the upgrade given the potential for these units to be retired or otherwise undergo significant future modifications to meet federal environmental regulations that go into effect in 2015.

*Proceedings Involving Puhi Sewer & Water Co., Inc. ("PSW")*

On May 21, 2013, PSW filed an application requesting that the PUC approve the sale and transfer of PSW and its assets to Aqua Puhi LLC. This proceeding follows several other dockets (Docket Nos. 2012-0181 and 2013-0001) wherein PSW asked the PUC to:

1. Amend PSW's Certificate of Public Convenience and Necessity ("CPCN") to authorize PSW to provide non potable water service to customers in PSW's PUC approved service territory, Docket No. 2012-0181; and
2. Amend PSW's CPCN to permit PSW to serve additional customers in an expansion PSW's PUC approved service territory, Docket No. 2013-0001.

Currently, proceedings in PSW's sale and transfer transaction docket are still ongoing. With respect to Docket No. 2012-0181, on April 19, 2013, following the exchange of discovery and information in the docket, PSW and the DCA filed a Stipulation of Settlement Agreement In Lieu of Puhi Sewer & Water Co., Inc.'s Response/Rebuttal Statement resolving all of the issues between PSW and the DCA in the docket. With respect to Docket No. 2013-0001, on July 8, 2013, following the exchange of discovery and information in the docket, the DCA filed a SOP not objecting to the expansion of PSW's PUC approved service territory in the docket. Currently, in Docket Nos. 2012-0181 and 2013-0001, the PUC has not issued decisions and orders resolving all of the issues in those dockets.

*HECO Companies Request for a New Interactive Voice Response ("IVR") System (Docket No. 2012-0331)*

On October 19, 2012, the HECO Companies filed an application to: (1) defer certain computer software development costs; (2) accumulate an allowance for funds used during construction during the deferral period; (3) amortize the deferred costs; and (4) include the unamortized deferred costs of the IVR System Replacement. The DCA filed its information requests on February 1, 2013.

In its SOP filed on April 2, 2013, the DCA objected to the proposed project because of various concerns. On April 23, 2013, the HECO Companies filed a Reply SOP, stating that it appeared that the DCA's objection to the approval of the application was based on a misunderstanding of the purpose of the IVR System Replacement project. Oral argument on this matter is scheduled for November 5, 2013.

*Pest Control Operators Exemption Analysis*

As a result of Act 141, SLH 2004, Hawaii's One Call Center ("One Call") was established (this is discussed further in the advocacy through participation on committees and boards). 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 opened Docket No. 2012-0043 to investigate whether it is reasonable to allow the exemption to be made permanent. As a result of the analysis conducted in that proceeding, the PUC filed its decision in May 2013, where it determined that a conditional waiver of the applicability of the One Call Center requirements to pest control operators could be implemented. If, however, future data suggests that there is an increasing frequency and cost associated with any damages, this waiver would be re-examined.

*Application by Hawaiian Telcom, Inc. ("HTI") and Wavecom Solutions Corporation ("Wavecom") for an Exemption or Waiver from All Regulatory Requirements or Approval of HTI's Purchase of Wavecom*

On July 16, 2012, HTI and Wavecom filed an application for an exemption or waiver from regulatory requirements, or in the alternative, approval for HTI's purchase of all of Wavecom's stock. In its SOP, filed on September 20, 2012, the DCA objected to the PUC's approval of an exemption or waiver from regulatory requirements based on the potential for wholesale services pricing discrimination, a greater concentration of market power of the interisland fiber optic network, and control of key network assets. The DCA, however, did not object to approval of the application, subject to certain conditions, since Wavecom's financial viability was questionable and the transaction would allow HTI to continue to provide services to Wavecom's customers. The PUC issued its Decision and Order on December 28, 2012, approving the application and adopting the DCA's conditions.

*HT Companies Refinancing (Docket No. 2013-0110)*

On May 9, 2013, Hawaiian Telcom, Inc. and Hawaiian Telcom Services, Inc. (together referred to as "HT Companies") requested PUC approval of the proposal to refinance their existing \$300 million term loan. The proposed refinancing would allow the HT Companies to reduce their current interest rate by 1.5% to 2.0% resulting in cash flow savings of approximately \$14 million over the term of the loan.

After conducting discovery, on May 28, 2013, the DCA filed its SOP recommending approval of the HT Companies' application with the condition that the funds from the improved cash flow: (1) be used to facilitate the deployment, operating and/or maintenance of broadband facilities, (2) be used to facilitate the implementation of Next Generation 9-1-1 ("NG 911"), and (3) not be used for bonuses and executive compensation.

On June 3, 2013, the PUC issued its Decision and Order approving the proposed refinancing, and adopting the DCA's conditions. On July 18, 2013, the HT Companies and the DCA made a joint filing that elaborated that the HT Companies would invest \$10 million of the total projected cash flow savings and

that it would be allocated where \$7 million will be utilized for the deployment, operating, and/or maintenance of broadband facilities and \$3 million will be utilized for the implementation of NG 911.

*HECO Companies Enterprise Resources Planning and Enterprise Asset Management System (Docket No. 2013-0007)*

In this proceeding, the HECO Companies are seeking approval to install and recover the costs associated with a new Enterprise Resources Planning and Enterprise Asset Management system to replace the current system(s) that the HECO Companies claim is obsolete and needs replacement. The proposed system is projected to cost approximately \$88.5 million, where approximately \$82.4 million will be possibly included as capitalized costs to be recovered from ratepayers.

The DCA has been reviewing the proposed system and the need to replace existing systems. As a result of some of the concerns raised by the DCA, the HECO Companies submitted supplementary testimonies and support that quantify cost savings and benefits that are purportedly expected from the new system, if approved. To determine whether the proposed system provides a reasonable level of cost savings and benefits, the DCA conducted discovery, engaged in discussions and technical meetings, and reviewed the information provided by HECO in order to develop testimonies, exhibits and workpapers.

*HELCO Approval of Deferral of Costs Related to the Geothermal Firm Dispatchable Capacity Request for Proposals*

On July 2, 2012, HELCO filed an application asking PUC approval for: (1) deferral of non-labor costs ("Geothermal RFP Costs") associated with the HELCO's request to acquire up to 50 MW of dispatchable renewable geothermal firm capacity ("Geothermal RFP Project") from the date of filing the application through the date HELCO selects the final award group of bidders (projected in May 2014), in order to preserve HELCO's ability to seek cost recovery through a future rate case, or through a surcharge mechanism; and (2) accrual and deferral of a carrying charge equivalent to HELCO's allowance for funds used during construction rate on the Geothermal RFP Costs, until HELCO begins recovering Geothermal RFP Costs through either the effective date of a rate increase including these costs or through a surcharge mechanism. HELCO believes that the Geothermal RFP is an opportunity to advance the State's energy policies, is consistent with HELCO's IRP, and will serve the customers' interests, all at reasonable cost.

The DCA is conducting discovery in this docket.

*Smart Meters*

Smart meters, or advanced metering infrastructure, replace the older traditional electric meters and allow for real-time communication between the customer and utility, providing more information and options to consumers to lower consumption and cost, and better service. KIUC, which provides electric service to roughly 33,000 customers on the Garden Island, began installing smart meters in April 2012. In July 2013, KIUC reported installing 27,000 meters to date, with about seven percent deferring installation. Reasons for deferral included privacy and health concerns, with the latter the most commonly noted. As a result of some of those concerns, docketed complaints were filed by certain customer, such as in Docket Nos. 2012-0163 and 2012-0171. One individual on Kauai filed a federal injunction against the installation of smart meters. KIUC eventually reached a settlement, deferring installation. The complaints filed with the PUC were dismissed, mainly due to the fact that they were moot following the resolution of the initial

federal case. KIUC is still developing a more permanent opt-out program. The HECO Companies plan to roll out smart meters statewide in the near future, also with an opt out option, but have not yet filed for approval with the PUC.

*HECO Companies EV-F and EV-U Tariffs*

In FY 2013, the HECO Companies proposed to initiate two new tariffs, EV-F (a new tariff to be charged to vendors who seek to provide electrical charging services to electric vehicles (“EV”)) and EV-U (a new tariff that would allow the HECO Companies to charge the operators of EVs for fast charging services). These new tariffs were proposed with the intent of encouraging the installation of more level 2 and level 3 EV charging stations throughout Hawaii to support the growing market of EVs on all islands. As a result of these tariffs, concerns were raised by DBEDT, Better Place (an EV charging vendor), and the DCA with the HECO Companies’ proposals. The PUC acknowledged the concerns raised and ordered the HECO Companies to work with the interested stakeholders. Some of those concerns involved what types and the levels of possible subsidies might be associated with this service, whether sufficient incentives exist to encourage more Hawaii residents and businesses to adopt EV technology, and whether the proposed tariffs might preclude effective competition from other potential market participants. After a number of discussions and meetings, the parties developed a settlement that supported revised tariff language to address the concerns. The PUC approved the revised tariffs, which should encourage and support the installation of more level 2 and level 3 EV chargers across Hawaii to foster the further development the purchase and use of EVs and the EV industry in Hawaii.

*PUC Investigation of Replacement of Utility Poles (Docket No. 2013-0082)*

Residents in Kaneohe complained of HECO’s intent to replace older poles with new taller poles, alleging that their view of Kaneohe Bay will be negatively impacted. On April 12, 2013, the PUC initiated an investigation to solicit and gather evidence and documents from the 47-416 Lulani Street Residents, as well as from HECO, to allow for consideration and determination of whether an exemption or waiver of the regulatory provisions regarding requisite maintenance and replacements of wood utility poles for residential consumers is in the public interest. Back in April 11, 2007, the PUC formalized the adoption of industry-accepted standards for the installation, operation, and maintenance of overhead and underground electrical supply and communication lines regarding public utility service in the State.

*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 and designates the Executive Director of the DCA as a member of the board. The DCA, through its Executive Director and staff, 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 2013, the DCA continued to maintain its 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, also now known as Hawaii Energy. 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.

Since there have been many changes since 2008 in the energy markets in Hawaii and the world, those changes have affected the visions of what can and should be done in Hawaii and the world’s energy markets. The signatories to the 2008 Energy Agreement have worked diligently on promulgating the

objectives and projects identified in the 2008 Energy Agreement and the DCA has offered comments to help balance consumer interests when evaluating Energy Agreement projects. There have been comments that, given the progress accomplished and the changes in the energy markets, it may be time to revisit the 2008 Energy Agreement to see whether it should be modified or replaced with an entirely new agreement. The DCA will continue to monitor and participate as appropriate in any such efforts.

### ***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 DCA publishes its own newsletter and has increased the plan frequency of these newsletters from a quarterly to monthly schedule. In addition, the DCA is focusing on improving its web presence by keeping the online information relevant and informative.

### ***Financial Summary***

The CRF financial summary<sup>2</sup> relating to DCA for fiscal year 2013 is as follows:

Personnel Expenses	Operating Expenses	Total Expenses	Revenues Received
\$1,161,203	\$570,557	\$1,731,760	\$2,715,111

### ***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.

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<sup>2</sup>

These are pre-close numbers.