LATE

TESTIMONY OF TAWHIRI POWER LLC
IN SUPPORTOF SB459
BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION
THURSDAY, FEBRUARY 26, 2009 AT 8:30 a.m.

My name Anthony B. Pace and I am testifying on behalf of Tawhiri Power LLC ("TPL") in strong support of SB459.

The Public Utilities Commission's ("PUC") lack of timely public notice is an ongoing and serious problem that violates the public's due process rights, and must be immediately corrected.

Although, I am sure that TPL is not the only entity that has its due process rights violated, let me share with you the unfortunate experience of TPL. On October 24, 2008, the PUC initiated Docket No. 2008-0274 and according to PUC rules the public has 20 days to file a Motion to Intervene. However, the public did not receive public notice of the Docket until October 29, 2008. TPL filed a Motion to Intervene 20 days from public notice, but the PUC ruled that its Motion was not timely. TPL objected arguing that the Order initiating the Docket was not valid until the public notice was made, citing 91-2b Hawaii Revised Statutes. The PUC denied TPL request for intervention stating that since TPL had notice of the Docket prior to the 20 day deadline, it did not have excusable neglect for not filing on time. Under the PUC's "rationale" if the Docket was initiated on Day 1, but the public did not receive notice until day 19, the public is still required to file a Motion to Intervene on day 20 because it knew of the Docket before the deadline. Clearly, this is a violation of due process and must be corrected immediately.

It is TPL's understanding that the PUC is working on its website to allow it to notify the public in a timely manner, which is good, but in the meantime, the PUC must either insure that its Daily Activities Report (currently the only means for the

public to be informed of new dockets) is current, they should provide all interested entities with e-mail notification of new dockets, or they should change their 20 day rule to 20 days from public notice. All of these suggested solutions would be easy to implement and require no additional funding to the PUC.

Thank you for the opportunity to provide testimony in support of SB459.