



HOUSE COMMITTEE ON LEGISLATIVE MANAGEMENT

The Honorable Ty J.K. Cullen, Chair
The Honorable Mark M. Nakashima, Vice Chair

**H.C.R. NO. 215, REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE
MANAGEMENT AUDIT OF THE DIVISION OF CONSUMER ADVOCACY**

Hearing: Thursday, March 21, 2019, 3:05 p.m.

The Office of the Auditor has **no position** regarding H.C.R. No. 215, which requires the auditor to “conduct a comprehensive management audit of the Division of Consumer Advocacy.” **However, we have concerns about the breadth of the required audit and our capacity to perform the work required by the bill.**

H.C.R. No. 215 requires us to conduct a comprehensive management audit that would include:

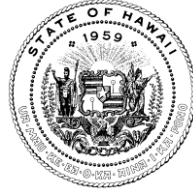
1. Updating the findings in previous audits, including the problems regarding inherent ambiguity and conflict in the Division of Consumer Advocacy's roles and lack of strategic vision;
2. The actions, initiatives, and performance of the Division of Consumer Advocacy in promoting Hawaii's clean energy goals, including the State's one hundred percent renewable mandate and other greenhouse gas and climate commitments;
3. The actions, initiatives, and performance of the Division of Consumer Advocacy's in representing, protecting, and advancing the interests of all consumers, including the interests of consumers who adopt clean energy resources such as distributed renewables and energy efficiency; and
4. Any recommended improvements, including proposed legislation, to update, redefine, or realign the Division of Consumer Advocacy's mission and organization based on the evolving needs of utility regulation as well as consumer and public interests.

The bill also requires that we solicit “comprehensive feedback” from the State’s clean energy stakeholder community.

First, in its current form, the bill does not include the period during which the Legislature wants us to audit the division’s “actions, initiatives, and performance.” Because an audit assesses an agency’s *past* performance based on appropriate criteria, we suggest that the committee amend the bill to identify the the specific timeframe of our review.

Second, we are concerned that our lack of technical knowledge about utility regulation, generally, may significantly impair our ability to make recommendations “based on the evolving needs of utility regulation.” It is most likely that an audit of the division will include findings, and we will include recommendations intended to address those findings. However, we are uncertain about our ability to factor the evolving needs of utility regulation into our recommendations.

Thank you for considering our testimony related to H.C.R. No. 215.



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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Legislative Management
Thursday, March 21, 2019
3:05 p.m.
State Capitol, Conference Room 312**

On the following measure:

**H.C.R. 215, REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE
MANAGEMENT AUDIT OF THE DIVISION OF CONSUMER ADVOCACY**

Chair Cullen and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy (Division or DCA). The Department opposes this resolution.

The purpose of this resolution is to request the State Auditor to conduct a comprehensive management audit of the DCA that includes, but is not limited to: any updates from previous audit findings; division actions to promote Hawaii clean energy goals; division actions to represent, protect, and advance the interests of all consumers, including those who adopt clean energy resources; and recommended improvements to update, redefine, or realign the Division's mission and organization based on the evolving needs of utility regulation and the interests of consumers and the public.

The DCA represents, protects, and advances the interests of consumers of utility and transportation services before regulatory agencies, primarily the Public Utilities

Commission (Commission) and the Federal Communications Commission. At the heart of the Division's mission is ensuring that Hawaii's consumers receive safe and reliable services at reasonable and just rates, while also ensuring customer protections. The Division has, consistent with state policies, also advocated for the increased use of renewable resources as well as energy efficiency. To adequately represent the interests of all consumers, the Division must balance a variety of competing interests.

Respectfully, this resolution seems to suggest that the DCA's recommendations may not be adequately representing customers who adopt clean energy resources, such as energy efficiency and distributed energy resources. On the contrary, the Division has consistently supported access to cost-effective clean energy resources, including energy efficiency measures and renewable energy distributed resources. Notably, the Division was a signatory of the 2008 Energy Agreement, which was a key stimulus to many renewable energy initiatives. The Division has also been working with the Department of Business, Economic Development, and Tourism to explore the cataloging of state land and facilities' rooftops under a reverse auction process to help reduce the development risk for independent power producers and reduce costs for renewable energy projects. In addition, in the latest Maui Electric Company rate case, the Division pursued changes to existing tariffs to allow customers who adopted energy efficiency measures to benefit from those measures sooner than if the tariff changes were not made. Due to these efforts, the utility agreed to make changes to help customers who adopted energy efficiency measures. Finally, on numerous occasions, the DCA created and expedited changes to tariffs and procedures to facilitate the adoption of renewable energy and energy efficiency by customers who could afford to pursue those technologies.

In trying to balance the interests of all customers, the Division encourages the adoption of cost-effective technologies and seeks to mitigate the subsidization of customers in these programs, especially if such subsidies may adversely affect low-income or vulnerable customers. Certain parties who have advocated for higher compensation for these programs may believe the DCA has not represented their interests well; nevertheless, as part of the migration to the clean energy industry, it is

important for the Division to advocate for cost-effective solutions that do not exacerbate the divide between the “haves” and “have-nots.” Moreover, if certain interests believe that higher compensation is reasonable, these parties may seek intervention and/or participation in Commission proceedings to make their points directly to the Commission. The Commission also allows public comments in any proceeding; as such, a party unwilling to engage in the regulatory process may raise concerns in that forum.

In addition, the Division, even with its limited resources, is a consistent voice seeking to increase benefits for all customers in all application and tariffs before the Commission. As another example of how the Division is performing its duties related to serving the customers, in FY 2017-2018, the Division was able to justify adjustments or obtain concessions from various utility companies in rate proceedings before the Commission; this resulted in first-year savings for utility consumers of approximately \$126,920,000.

The DCA is continuously striving to improve its processes to best represent, protect, and advance the interests of all Hawaii consumers. The Division has considered and pursued several changes in its organizational structure to improve its operations, to enhance its ability to attract and retain employees, and to address consumer concerns relating to the regulated industries. For example, the DCA created an education specialist position to address its need to help consumers understand their competitive telecommunications options. The DCA has ongoing efforts to reorganize the Division to address recruitment and workload issues and is currently requesting the Legislature’s funding of additional positions. The Division welcomes suggestions that would help improve its processes. However, given the commitment of time and resources imposed upon an agency when a comprehensive management audit is conducted, the DCA’s current workload, and its constrained staff resources, the proposed audit would severely impair the Division’s ability to perform its duties to represent, protect, and advance the interests of consumers. Thus, the Division respectfully requests that this resolution be held.

Thank you for the opportunity to testify on this resolution.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
LEGISLATIVE MANAGEMENT

March 21, 2019
3:05 p.m.

Chair Cullen and Members of the Committee:

MEASURE: H.C.R. No. 215

TITLE: REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE
MANAGEMENT AUDIT OF THE DIVISION OF CONSUMER ADVOCACY.

DESCRIPTION: REQUESTING THE AUDITOR TO CONDUCT A COMPREHENSIVE
MANAGEMENT AUDIT OF THE DIVISION OF CONSUMER ADVOCACY.

POSITION:

The Public Utilities Commission is **opposed** to HCR 215.

COMMENTS:

The Public Utilities Commission (“Commission”) believes this measure is unnecessary and will have the opposite effect of the purpose stated in the preamble.

The Consumer Advocate represents and advances the interests of all consumers in proceedings before the Commission, and the Consumer Advocate is frequently the only party in the docket, other than the regulated utility. As such, the Commission relies on the expertise and testimony of the Consumer Advocate in reviewing a wide range of utility applications and other docketed matters.

The Commission understands that the Consumer Advocate is undergoing an internal restructuring, including re-describing several positions that have been difficult to fill, and has requested an increase of its appropriation ceiling to hire additional staff. The participation of the Consumer Advocate in the review of matters before the Commission is essential to developing a sound record and assisting the Commission in making

decisions that are in the public interest. Requiring an audit concurrently with restructuring will unnecessarily burden the Consumer Advocate's staff, resulting in reduced ability for the Consumer Advocate to participate in Commission proceedings and hinder the Commission's decision-making.

The Commission respectfully recommends that rather than requiring an audit of the Consumer Advocate, the Consumer Advocate's budget and staffing requests should be granted so that the Consumer Advocate can continue to effectively represent the interests of consumers in proceedings before the Commission.

Thank you for the opportunity to testify on this measure.