

DOCKET NO. 03-0371

PUBLIC UTILITIES COMMISSION

**CONSUMER ADVOCATE'S RESPONSES TO
THE GAS COMPANY'S ("TGC") INFORMATION REQUESTSON THE
CONSUMER ADVOCATE'S PRELIMINARY STATEMENT OF POSITION**

TGC/CA-SOP-IR-1 a. Please identify the consultant(s) and consulting firm(s) the Consumer Advocate expects to seek assistance from in this proceeding.

RESPONSE The Consumer Advocate is unable to state with certainty at this time who it "expects to seek assistance from in this proceeding." To-date the Consumer Advocate has retained the services of Sawvel and Associates, Inc. The Consumer Advocate may have a need to retain other consultants to assist us on this matter depending on the issues that may arise during the course of the proceeding.

- b. Please provide copies of any testimony, comments, position statements, articles, memoranda or other written documents, slides, etc., prepared in part or wholly by such consultant(s) or consulting firms since enactment of PURPA in November 1978 which address the topics of (1) market power or market concentration in gas or electric wholesale or retail markets, (2) affiliate rules, standards and/or codes of conduct, (3) distributed generation or cogeneration, (4) divestiture or other structural or functional separation of the generation function by vertically integrated electric utilities, (5) unbundling of electric utility rates or services, (6) cost allocation, rate design, incentive or performance-based rates for electric or gas utilities at the state or federal level, (7) any facet of integrated resource planning, (8) back-up/standby rates or rate design and scheduled maintenance rates, (9) bypass or "uneconomic bypass," or customer retention-type rates, and (10) competitive bidding for generation.

RESPONSE

This information request is unduly onerous and burdensome in that it requires a research of work performed over the course of the past 26 years. In addition, the requested documentation is voluminous and is already a matter of public record that can be obtained by TGC through its own research efforts.

TGC/CA-SOP-IR-2 **Ref: DCA Preliminary Statement of Position, p. 6 “The viability and feasibility of available or planned DG technologies is site specific and should be analyzed in each of the Electric Utility Company’s IRP to identify the least cost options for customers.”**

Does the CA believe that the “least cost options for customers” should be based on the DG system’s installed cost or life cycle cost?

RESPONSE

All supply-side resources, including DG, should be evaluated in the utility’s IRP process on the same or similar life cycle basis to develop the lowest reasonable cost options for customers that takes into account the system needs served by such supply-side resources.

TGC/CA-SOP-IR-3 **Ref: DCA Preliminary Statement of Position, p. 7, fn. 3 “In the ‘regulated’ Hawaii environment, DG participants can not presently sell electricity services directly to other customers or have DG output delivered, or ‘wheeled’ over the utility’s delivery system to other utility customers.”**

- a. Does the Consumer Advocate believe that the electric utilities should be unbundling utility costs/rates/bills for generation, transmission, distribution, and ancillary services, or separately offering such services?

RESPONSE

The Consumer Advocate is unable to respond to the request as the distinction being made is not clear. The Consumer Advocate, however, has determined that as long as the utility’s rates reflect the costs of providing generation, T&D, and ancillary services, the rates should be unbundled to reflect the rate and associated costs of each service. Such unbundling will contribute towards a better understanding of the costs incurred to provide certain services, as well as being a fundamental step in investigating the possibility of competitors’ entry into certain markets. Thus, unbundling existing utility costs/rates/bills is required to properly recognize the cost/benefits received/provided among the utility, customers and DG participants. See also response to HECO/CA-IR-3.

- b. Does the Consumer Advocate believe that third-party generators should offer ancillary services to the utilities? If so, does the Consumer Advocate believe that the rates for such services should be set at other than market prices? Please explain.

RESPONSE

Third party generators could offer ancillary services to the utilities but would not be obligated to do so. Ancillary services would be

paid for at the regulated utilities unbundled ancillary service rates. Spinning reserves would be supplied similar to the manner that the regulated utility supplies it. The interconnection agreement for each DG installation will need to specify the specific ancillary service provided by the DG and the rates and terms for the services.

- c. Does the Consumer Advocate believe that the unbundling of electric utility costs for generation, transmission, distribution, and ancillary services, etc., is needed to facilitate wheeling of DG? Please explain.

RESPONSE

Yes, in order to determine the cost of the T&D facilities over which power will be wheeled, and the fair price to be charged for the use of the utility lines, the existing rates must be unbundled. However, open access transmission services (wheeling) is not within the scope of this proceeding.

TGC/CA-SOP-IR-4 **Ref: DCA Preliminary Statement of Position, p. 9 “The Consumer Advocate believes there should not be a restriction on who may own and operate DG projects.”**

- a. Please explain whether the Consumer Advocate believes that a vertically integrated, shareholder-owned electric utility company should be allowed to own and operate user-sited DG (not designed to sell electricity back to the grid) as a utility function, above the line, at other ratepayer expense. Please provide the rationale.

RESPONSE

Based on the question, the Consumer Advocate assumes that the question refers to a customer whose DG facility is connected to the utility grid, but sized to only serve the customer’s load. The referenced statement speaks for itself. The deciding factor should not be who owns the DG facility. Rather, the deciding factor should be whether the DG facility will be a cost-effective source of generation for the utility and its customer.

The issue is thus whether the installation of a specific DG facility is consistent with the utility’s lowest reasonable cost IRP plan and selected through a competitive process. If the utility owns the facility, the utility should not be allowed to “subsidize” the costs of the DG project at other ratepayers’ expense.

- b. If the Consumer Advocate believes that a vertically integrated, shareholder-owned, electric utility should be allowed to own user-sited DG not designed to sell electricity back to the grid, at other ratepayer expense, does the Consumer Advocate have a position on whether any portion of the costs of the installation (e.g., heat recovery units, control rooms, etc.) should be ineligible for recovery from other ratepayers? If so, please explain.

RESPONSE N/A. See response to subpart a. above, the Consumer Advocate has already stated that a utility's other ratepayers should not be required to subsidize the costs of a DG facility.

- c. Please explain the Consumer Advocate's position on whether a vertically integrated, shareholder-owned, electric utility company should be allowed to own and operate user-sited DG designed not to sell electricity back to the grid, as a nonutility function, below the line, at shareholder expense. Please provide the rationale.

RESPONSE N/A. See response to a. above. The Consumer Advocate takes no position at this time on whether the arrangement should be done as a non-utility transaction at shareholder's expense.

- d. Does the Consumer Advocate believe that a vertically integrated, shareholder-owned, electric utility should be allowed to own or operate user-sited DG designed not to deliver electricity to the grid and recover portions of the costs and revenues *either* above the line or below the line, in the sole discretion of the electric utility? Please explain.

RESPONSE See the response to subpart a. above. Also, a non-utility DG participant should not be "subsidized" by utility ratepayers through a rate or credit that exceeds the benefit provided by the DG facility.

At this time, whether costs are recovered above or below the line is a decision that will need to be made by the Commission based on the specific facts of each specific situation. It is unlikely, however, that the Commission would implement rules that would allow a utility company to use its own discretion, without documented criteria for deciding cost recovery provisions. To do so may encourage the belief that discrimination will occur, which is contrary to the public interest and existing statutory language (e.g., HRS § 269-16). Given the broad nature of this question, however, the Consumer Advocate is unable to provide a response that is based on a hypothetical general situation as posed by TGC.

- e. Please explain the Consumer Advocate's position on whether a vertically integrated, shareholder-owned electric utility company should be allowed to own user-sited DG designed not to deliver electricity to the grid, as a utility affiliate, exclusively or not. Please provide the rationale.

RESPONSE

See the response to subpart a. above.

- f. Please enumerate any other considerations the Consumer Advocate believes should be involved in determining the form of ownership by a vertically integrated, shareholder-owned, electric utility company of user-sited DG. Please explain if the Consumer Advocate believes its position would change based on whether or not the DG is designed to deliver electricity to the grid.

RESPONSE

See the response to subpart a. above.

- g. Does the Consumer Advocate consider electric utilities installing user-sited DG that will convert existing gas water heating, chilling, etc. load to electricity to be engaging in a promotional program(s)?

RESPONSE

See the response to subpart a. above. Without having more specific facts, the Consumer Advocate is unable to provide a response to the general hypothetical question posed.

- h. In its October 1998 position statement in electric competition Docket No. 96-0493 at pp. 18, 42, the Consumer Advocate identified as a hurdle to competition for individual electric customer loads the need for third-party generation suppliers to site their facilities inside-the-fence, on the premises of the customer. Does the Consumer Advocate believe that the ability of a vertically integrated, shareholder-owned electric utility having market power to place utility-owned generation inside the fence, on a user's premises, is also a deterrent to competition for individual customer load? If not, why not?

RESPONSE

The statement of position filed in Docket No. 96-0493 speaks for itself. Without the benefits of the specific facts surrounding each situation, the Consumer Advocate is unable to provide a response that is based on a hypothetical general situation as posed by TGC.

- i. Does the Consumer Advocate believe that new entrants seeking to compete in the market of providing inside-the-fence DG in Hawaii would be unfairly disadvantaged if an incumbent electric utility having market power is allowed to enter that market? If not, why not?

RESPONSE

See the responses to subparts h. and j, of this information request.

- j. Does the Consumer Advocate have any concerns about the market power of the incumbent electric utilities entering the market to perform DG? Please elaborate.

RESPONSE

No. See the response to subpart h. above. Market power should not be an issue if DG is selected through the IRP and/or a competitive bidding process.

- k. Please explain if the Consumer Advocate believes that a vertically integrated, shareholder-owned, electric utility should proactively seek out opportunities to install user-sited DG at other ratepayer expense whether or not there is a system need on that portion of the system?

RESPONSE

See the response to subpart a. of this information request.

TGC/CA-SOP-IR-5 **Ref: DCA Preliminary Statement of Position, Article III, Section D Operational Considerations, p. 11 "...ownership and operation of the DG by the Electric Utility Companies may be a lower risk, higher reliability option than other combinations of ownership and operation..."**

- a. Please explain the term "risk" and what is encompassed by the term, e.g., rate risk to the user on whose site the DG is located, rate risk to the other electric utility customers, operational risk to the electric system, market risk, etc.

RESPONSE

The term "risk" in this context refers to the operational and economic risk to the utility if the DG project is not operated in coordination with the dispatch of the electric utility generating resources.

- b. Please explain what forms of risk the Consumer Advocate believes may be lowered by electric utility ownership, e.g., risk to the equipment itself, operations of the individual user, system instability, economic risk of project failure to the individual user or to other ratepayers who are bearing the costs of installation, ownership and operation, etc.

RESPONSE

See the response to subpart a. above. In addition, economic risk to the customer and reliability risk may be decreased by electric utility ownership and operation because the utility would have operational and financial control of the DG. Depending on the circumstances, additional risk assessment criteria may be applicable. For instance, if insufficient central station generation exists to meet system demand and the ability to add additional central station resources is constrained, allowing the utility to add DG that may not have been

sought by the customer might reduce system reliability risk for failure.

- c. Please explain what special ability the Consumer Advocate believes that an electric utility may possess to operate commercially available DG equipment that it believes third party operators do not have, assuming that third party operators adhere to best methods and practices and are granted utility approval for interconnection.

RESPONSE

The utility has the ability to dispatch the resource and schedule maintenance of the facility to best match the output with the overall load to be served in the most economic manner (i.e., economic dispatch of the utility generation system).

- d. Is the Consumer Advocate aware of any studies that have examined the risks, related to ownership, to customers other than the individual customer(s) installing utility-owned vs. non-utility owned, user-sited generation? If so, please provide information on how a copy may be obtained.

RESPONSE

The Consumer Advocate is not aware of any studies that have examined the risks, related to ownership, to customers other than the individual customer(s) installing utility-owned vs. non-utility owned, user-sited generation.

TGC/CA-SOP-IR-6 **Ref: DCA Preliminary Statement of Position, Article III, Section D Operational Considerations, pp. 10-11; Article IV, Section A Reliability Issues That Need To Be Considered, p. 13**

- a. Please explain if the Consumer Advocate believes that the Electric Utility Companies' resource planning criteria should include all distributed generators.

RESPONSE Yes, to the extent possible, all commercially available, technically and economically feasible DG, and existing distributed generators connected directly or indirectly to the utility's delivery system should be considered in developing the utility's lowest reasonable cost IRP plan.

- b. Please explain if the Consumer Advocate believes that the planned reliability levels should be increased if distributed generation is included.

RESPONSE No, the reliability levels of the utility's generation will depend on the size of the available generation and the fuel source to be used by each of the facilities, who controls the dispatch of the units and whether the DG facility is connected to the utility system for back up generation. Thus, the supply-side resources that should be selected must meet the utility system's needs and reliability levels in a lowest reasonable cost manner as determined in the utility's IRP plan and subject to a competitive bid process. If reliability levels are to be increased, that decision should be reached based on the factors that might influence such a decision, such as end-user requirements, industry standards, etc.

TGC/CA-SOP-IR-7 **Ref: DCA Preliminary Statement of Position, Article III, Section E Factors Related to the Interconnection of Distributed Generation to the Electric Grid, pp. 11-13**

In the case of utility-owned, user-sited DG, does the Consumer Advocate believe that regardless of whether the facility is designed to serve the user only or to deliver power to electric grid, the costs of interconnection studies, facilities analyses and upgrades to accommodate DG, and the like that are required before a particular request to interconnect may be acted upon should be borne by the utility's shareholders, the utility's other ratepayers, or the user of the DG facilities? Please explain.

RESPONSE Such costs should generally be borne by the cost causer if the utility is to serve the user only. If the facility is to provide power to the utility through the terms of a purchase power agreement, the Commission has already provided guidance as to who should pay the costs of interconnection. See for example, Decision and Order No. 15187 filed in Docket No. 94-0079 on November 25, 1996.

TGC/CA-SOP-IR-8 **Ref: DCA Preliminary Statement of Position, Article IV, Section A, p.13 "If the DG facility is not deemed to be a reliable capacity resource, then the electric utility will have to continue to maintain adequate generating reserves in order to be able to continuously serve its customers."**

- a. Please explain by what criteria the DG facilities should be deemed reliable or not. Please indicate if these criteria should be applied to all DG facilities, including those not designed or used to deliver power to the electric grid.

RESPONSE The IRP should define the reliability or availability of each DG. These criteria should apply to all DG that are directly or indirectly connected to the electric grid. The referenced statement referred to "as available" generation as opposed to "firm" power, that may be installed as a DG facility. The statement was not referring to specific criteria other than what has been stated in this response.

- b. Please explain if the Consumer Advocate believes that the electric utility would need to maintain generating reserves on a one for one basis for DG resources not deemed to be reliable. If not, please explain how an adequate amount of generating reserves should be determined.

RESPONSE Generating reserves will continue to be determined as they are today. If a DG can provide reserves and contracts with the utility to provide reserves, utility supplied reserves would decrease. Also, the level of reserves would depend on the level of back up the customer seeks from the utility if the customer's DG facility is unable to serve the customer's load.

TGC/CA-SOP-IR-9 **Ref: DCA Preliminary Statement of Position, Article IV, Section B Ancillary Functions that DG Might Provide, pp. 14-17**

- a. Does the Consumer Advocate believe that all forms of DG, except stand-alone but including those that are not designed or used to transmit power to the electric grid, provide ancillary functions?

RESPONSE Not all forms of DG provide ancillary functions.

- b. Please explain if the Consumer Advocate considers user-sited emergency backup generators that are not interconnected to the electric grid to be a form of DG.

RESPONSE The Consumer Advocate interprets “Emergency Generator” to mean a generator that is used only for the customer’s purposes in case of an outage and may not be operated in parallel with the electric utility grid. This definition is consistent with the definition used in the area concerning generation related to hospitals and would preclude the emergency generator from being used for normal load serving purposes. Hospital backup/emergency generators are an example of a type of generation that is designated only for emergency use. Based on this definition, an emergency generator would not be DG.

- c. Does the Consumer Advocate believe that all utility-owned, user-sited DG should be subject to the utility’s economic dispatch regime? Please explain.

RESPONSE Yes. To the extent that utility-owned DG is dispatchable, it should be dispatched to achieve the lowest cost to customers as a whole.

- d. Does the Consumer Advocate believe that the cost of fuel used by an electric utility-owned, user-sited DG facility sized not to deliver electricity into the grid, should be passed through the ECAC of the electric utility?

RESPONSE

See the response to TGC/CA-SOP-IR-4a.

- e. Please explain in what manner the Consumer Advocate believes that environmental factors should be balanced with the least reasonable cost analysis in evaluating the cost of fuel for electric utility-owned and operated, user-sited, DG.

RESPONSE

From a theoretical perspective, externalities can be quantified in an IRP economic sensitivity analysis. Based on experience to-date, past attempts to monetize externalities have highlighted the difficulties of incorporating externalities to the satisfaction of all parties in developing the utility's IRP. Further efforts to reach consensus on how to monetize externalities will be required if externalities are to be included in the future IRPs of each utility.

It is also possible that, if customers consider implementing DG, customers will evaluate externalities in lieu of analysis through the IRP process. That is, an end-user evaluating various supply options could hypothetically choose a renewable resource to meet energy needs based primarily on the customer's assessment of externalities.

- f. Does the Consumer Advocate believe that a vertically integrated, shareholder-owned, electric utility should proactively seek out opportunities to install user-sited DG at other ratepayer expense anywhere on that utility's grid, whether or not there is a need to create capacity or energy or reduce load on that portion of the system? Would this belief change if the utility-owned, user-sited DG is designed not to deliver electricity into the grid?

RESPONSE

DG should be installed because it was identified as a lowest reasonable cost alternative in the IRP or if the customer determines that the resource is more cost effective for the customer. Therefore, it would not be installed at "other ratepayers" expense. DG that is not directly or indirectly connected to the electric grid is not considered to be DG by the Consumer Advocate for purposes of the instant proceeding.

- g. Does the Consumer Advocate have a position on whether an electric utility should be free to approach a user with a proposal to install utility-owned DG designed not to deliver electricity into the grid, without regard to prior identification of system need for specified quantities of capacity or energy at specified locations, through or during an IRP proceeding? Please explain.

RESPONSE

See the response to subpart f. above. The project should not be installed at other ratepayers' expense. As discussed in various information request responses, the Consumer Advocate believes that DG resources should be considered to the extent possible in the IRP process to meet identified utility needs and selected through a competitive bid process, as applicable.

- h. Does the Consumer Advocate believe that an electric utility installing user-sited DG at other ratepayer expense should be allowed to offer the kWh generated by the utility-owned DG at a discount? If yes, how should the discount be computed?

RESPONSE

See the response to subpart f. above. The Consumer Advocate has already stated that the DG facility serving a specific customer should not be installed at other ratepayers' expense.

- i. Should other electric ratepayers be required to subsidize the cost of any discount afforded to the users who received the electric-utility-owned, user-sited DG, via base rate increases in the electric utility's next rate case? In other ways? Subject to any conditions?

RESPONSE

See the response to subpart f. above.

- a. How would the Consumer Advocate explain the importance of determining DG's benefit to the utility to a utility customer who is trying to find a way to lower his energy costs and is installing DG to accomplish that goal?

RESPONSE

In the hypothetical situation where the Consumer Advocate is explaining the importance of DG's possible benefits, it might be offered that if DG decreases the cost to a customer and does not increase the utility's costs or cause other customers to subsidize this customer, the DG is an acceptable alternative to meeting the needs identified in the IRP. Depending on the situation, if the costs to implement DG are at or below the costs that might otherwise be incurred, especially if there are positive externalities that can be identified, then that information might also be offered to the customer.

- b. Given the Consumer Advocate's definition of DG as generation at or near the load, please explain the statement "...the site also needs to be adjacent to the electric utility delivery system (distribution or transmission) to deliver the energy from the DG facility to the electric system."

RESPONSE

The Consumer Advocate's definition of DG is a facility that is connected to the electric grid and is located near the load (customer). If the DG serves a customer that is not connected to the electric grid, it is not considered by the Consumer Advocate to be DG for purposes of this proceeding.

TGC/CA-SOP-IR-11 **Ref: DCA Preliminary Statement of Position, p. 20 “If a customer installs DG for its use first, then the customer makes its own economic decision by comparing the cost of the DG facility to the unbundled rates that would be implemented in conjunction with DG.”**

a. Please explain the meaning of “for its use first.”

RESPONSE

This phrase refers to a customer that intends to install DG that may provide more energy than the customer’s use requires and thus, would cause energy to be transmitted to the utility grid.

b. Please explain the meaning of “the unbundled rates that would be implemented in conjunction with DG.” In particular, does this refer to existing retail rates, standby rates, rates for excess sales to the interconnecting utility, or some other rate?

RESPONSE

The Consumer Advocate recognizes that existing electric utility “bundled” rates include recovery of the cost of capital (generation, transmission, distribution), operating and maintenance costs and fuel costs. Most of these cost components are currently rolled into the rate charged to the customer. Unbundling rates means that each cost component is separately billed to the customer so that the customer can pay for the services it chooses to purchase from the electric utility and also determine what services can be obtained in a less costly manner through alternative sources (e.g., self-provision, third-party vendor, etc.). For instance, transmission and distribution capital expenditures have been incurred to serve

existing customers, to serve growth in usage of existing customers and to serve new customers.

If an existing customer installs DG, the energy provided by the DG would decrease the electric utilities' revenues relative to that user's load. A decrease in revenue is acceptable if there is a corresponding decrease in the electric utilities' expenses. However, because revenues derived from an energy charge can decrease and costs included in the rate charged customers may not decrease, rates may need to be modified to truly reflect costs. If rates are not modified appropriately, as revenues decrease disproportionately with costs, electric rates will eventually need to be increased to recover revenue shortfalls. In essence, over time, DG would be subsidized by other customers if rates do not accurately reflect cost components.

- i) Does the Consumer Advocate believe that unbundling of electric utility services will be required in order that producers of non-firm or as-available DG be required to purchase additional ancillary services from the electric utility to improve the quality of the power they are selling or wheeling? Please explain.

RESPONSE

Unbundled rates would be charged to all retail customers and would be used as the rate to pay for services that may be provided by DG. As it relates to ancillary services that might be obtained by non-firm or as-available DG providers, unbundled rates by the utility, as well as other independent parties capable of providing

that ancillary service, may be an important market tool. Otherwise, it may be necessary to include provisions, including cost recovery, in the interconnection standards to deal with issues relating to energy sold or wheeled over the transmission and distribution system.

- ii) Does the Consumer Advocate have a position or recommendations as to when and how this unbundling should be carried out? Please explain.

RESPONSE

TGC, who was a party to Docket No. 96-0493, should be aware that the Consumer Advocate's Statement of Position filed in Docket No. 96-0493 stated that unbundling of rates was deemed to be the first step to introducing competitive bidding and third party generation suppliers for the State. Thus, unbundling of the existing rates should be implemented prior to implementing DG.

- c. Please explain if the Consumer Advocate believes that unbundling utility rates or services and assigning a regulated rate to each component will be necessary to assist with the valuation of these services in the process of competitive bidding for new generation, least cost IRP planning, and/or creating retail markets for IPPs.

RESPONSE

Yes. Unbundling would define the cost of each service purchased by retail customers and thus, also reflects the value of similar services provided by DG.

- d. Please explain whether the Commission's October 21, 2003 order in Docket No. 96-0493, finding that "implementation of retail access would be premature" in Hawaii (p. 14) would affect the Consumer Advocate's position concerning unbundling electric utility rates and/or services in this proceeding.

RESPONSE

No, unbundling rates refers to the process of structuring rates to reflect the costs of providing a service. Unbundling does not imply, nor is it equivalent to, retail access.

- e. Does the Consumer Advocate believe that customers who install DG facilities for their own use, prior to the outcome of this proceeding, without a prior agreement for sale of power to the interconnecting utility should be treated in some special way under any rules or orders that are adopted in this proceeding? If so, please explain any such differences and the reasons for them.

RESPONSE

Hypothetically, it may be preferable to "grandfather" such customers. It is possible, however, that the outcome of the instant proceeding may result in conditions, that if allowed, may benefit even the early adopters. It will be necessary to consider the public policy as it relates to allowing early adopters to reap possible additional benefits in the same vein as the policy applicable to free ridership. If, however, the outcome of the instant proceeding results in conditions or events that may be adverse to the early adopter, it may be "unfair" to these parties who made their decisions based on the circumstances and market conditions existing at the time.

Until the results of instant docket become clearer, it would be premature to speculate on any conclusion or definite opinion on this matter.

- f. Does the Consumer Advocate believe that customers who install DG for their own use after rules or orders are issued as may result from this proceeding but without a prior agreement for sale of power to the interconnecting utility should be treated in some special way under any rules or orders that are adopted in this proceeding? If so, please explain any such differences and the reasons for them.

RESPONSE

This question is unclear. If this hypothetical question refers to a situation where a customer installs a resource for their own use, off-grid, there should be no special treatment applicable to the end user.

In the event that this question refers to a hypothetical situation of a customer on-grid, for its own use, the Consumer Advocate contends that the outcome of this docket should be applicable to that customer unless evidence can be provided to the Commission that will exempt that customer.

TGC/CA-SOP-IR-12 **Ref: DCA Preliminary Statement of Position, Article V, Section B Cost Allocation and Unbundling Utility Costs, pp. 21-22**

- a. Please explain how separately stating transmission and generation rates, without tying them to the actual marginal costs to serve each class, “provide[s] proper price signals to DG projects.”

RESPONSE

The purpose of unbundling the rates is to allow a matching of the services provided by the utility with the charges for such services. With bundled rates, the charges for service may not necessarily be designed to recover the utility’s costs of providing the specific service. In order to provide the customer with an assessment of how much is being paid for the various services provided by the utility company, the bundled rates must be unbundled. Furthermore, the unbundled charges for the services provided should be based on the utility’s embedded costs, not the utility’s marginal costs.

- b. Please reconcile the stated goal of providing proper price signals to DG projects with the recommendation of doing so in a way that “does not disrupt bundled rates used by the Electric Utility Companies, and the Commission’s gradual approach in addressing inter- and intra-rate class subsidies.” Please explain if the Consumer Advocate is suggesting that these goals be attained simultaneously, that certain goals be subordinated to others, or that there be a phase-in of the new rate design or structure.

RESPONSE

The requested reconciliation is that DG benefits should not be measured against a rate component that includes inter-, or intra-, rate class subsidies. This can be done by unbundling the rates,

and by not including any inter- or intra-rate class subsidies in those rate components affected by DG projects. Under ideal circumstances, this unbundling goal should be achieved simultaneously with the Commission's implementation of DG rules and policies. With respect to inter- and intra-rate class subsidies, however, the adoption of cost based rates should continue to be dealt with in each utility's rate case filing as is presently the case.

- c. Please describe the rate structure(s) that the Consumer Advocate believes will accommodate the goals enumerated in Section B, e.g., performance-based rates or other incentive rates, a different structure for base rates, a different structure for standby rates and scheduled maintenance rates, exit fees or reentry fees. Please explain.

RESPONSE

An unbundled rate structure that allows for a matching of the costs for services provided by the utility with the charges paid by the customer for such services will achieve the goals enumerated in Section B of the Consumer Advocate's Preliminary Statement of Position. The rates mentioned are more applicable to the DG participation and its performance that would be addressed in the agreement with the participant.

- d. The Consumer Advocate discusses “establishing a cost of service based value that can be used to measure the economic feasibility of specific DG projects.” Does the Consumer Advocate contemplate that the utility, the Commission, the potential customer, or the Consumer Advocate will perform this measure?

RESPONSE The Commission, based on the participation and input of the Consumer Advocate, utility, customers and DG participants, would ultimately establish these measures in the rate filing process.

- e. When and where does the Consumer Advocate believe that such measuring (from item d) should take place?

RESPONSE See the response to subpart d. above.

TGC/CA-SOP-IR-13 **Ref: DCA Preliminary Statement of Position, ArticleVI, Section A, pp. 23-24**

- a. Does the Consumer Advocate have a position on how the “lowest reasonable cost” in the context of electric utility’s IRP plan is determined with respect to a DG facility that produces combined heat and power (i.e., both kWh and therms)? Please explain.

RESPONSE The Consumer Advocate interprets “lowest reasonable cost” in this context to be the cost incurred by the electric utility for purposes of serving the electric system needs of its customers. Therefore, the cost incurred by specific DG facilities on the electric system would be compared to other electric resource costs when the utility develops its IRP. See also the response to subpart d. below.

- b. In determining “lowest reasonable cost” for a potential CHP installation, does the Consumer Advocate believe that the comparison should be based on cost and quantity of the input fuel(s), the output energy, or some combination of the two? Please explain.

RESPONSE The IRP would need to consider the total cost of the DG facility to the utility, the amount of capacity and energy and any other ancillary functions that would be provided to the utility by the DG facility. See also the response to subpart d. below.

- c. If the potential CHP customer currently uses utility gas for its heating load rather than electricity, does the Consumer Advocate believe the lowest reasonable cost analysis changes? Please explain.

RESPONSE

More specific information would be needed to directly answer this question. However, the Consumer Advocate contends that the “lowest reasonable cost” analysis relates only to the electric utility and thus, the type of DG facility does not change the analysis. See also the responses to subparts d. and e. below.

- d. Does the Consumer Advocate have a position on what level of revenues an electric utility that owns user-sited CHP should (1) charge the user, or (2) credit to its other utility customers for the sale of heat energy (therms)?

RESPONSE

The information request is too broad to formulate a specific response as it pertains to the electric utility companies authorized to provide service in the State. In general, assuming the CHP program is regulated by the Commission, the approach that should be followed for purposes of setting electric system rates include consideration of the costs associated with the electric generation portion of the CHP facilities (including an appropriate allocable portion of the common facilities between electric and thermal production facilities and an appropriate sharing of the “efficiency” benefits of the combined heat and power operation) and a revenue-credit for thermal revenues in excess of thermal costs.

- e. Please explain if the Consumer Advocate has considered how the ratepayer impacts of shifting of load between the gas utility and electric utility through forms of distributed generation should be addressed. Please explain if ownership of the DG facility would have an impact on the treatment.

RESPONSE

Any ratepayer impacts must be addressed in the context of the specific applications that present the facts supporting a proposal to shift load between gas utility and electric utility through forms of DG. Furthermore, as The Gas Company is aware, the Hawaii Commission has already ruled that fuel switching between gas and electric is not to be considered in a utility's IRP.

Conceivably, an increase in gas utility loads could result from DG facilities that use SNG as a fuel source. Gas utility loads could also be impacted by the State's goal of fossil-fuel independency. The driving forces of the benefits of DG facilities are not so much an issue of DG facility ownership, but rather what is the lowest reasonable cost plan to serve customers through a competitive process that is consistent with the State's environmental and energy policies and goals.

TGC/CA-SOP-IR-14 **Ref: DCA Preliminary Statement of Position, ArticleVI, Section B Real v. Externalities (Environmental, Energy and Social Policies), p. 24**

- a. Please explain if the Consumer Advocate believes that this Section should apply to all forms of DG, including those projects that are not intended, designed or used to deliver power to the electric grid.

RESPONSE

This Section applies to any DG projects that are included in the utility's IRP or that will be implemented in accordance with the IRP. Furthermore, as previously stated, for purposes of this proceeding, the Consumer Advocate is not considering facilities that are not connected to utility system to be DG.

- b. Does the Consumer Advocate believe that a DG project owned and operated by a third party (not the utility) should ideally (i.e., unconstrained by the current IRP Framework or the practices that electric utilities have traditionally followed under it) be evaluated in the electric utility's IRP similarly to other resource alternatives?

RESPONSE

Yes, to the extent that the DG facility is intended to serve a need identified by the utility. DG facilities that are installed at a customer's request may not necessarily be initially considered in the IRP process if the utility was not aware of the customer's plans to install a DG unit when the IRP was developed.

- c. Ideally, should the externality and other costs and benefits of an electric utility-owned, user-sited CHP project on utility gas customers be considered and/or evaluated in the context of the electric utility's IRP by the electric utility? By the Consumer Advocate? By the gas utility? By others?

RESPONSE This question, is broad, and lacking in specifics such that the Consumer Advocate is unable to provide a response.

- d. Please explain if the Consumer Advocate has a position on how the impacts of fuel switching, for example, shifting gas load to an electric utility owned diesel-fired DG, should be addressed.

RESPONSE The Consumer Advocate needs more information about this question to be able to answer it.

- e. Please clarify that the statements in Section B apply only to the treatment of externalities and not to any other regulatory issues such as cost recovery.

RESPONSE Section B addresses externalities.

TGC/CA-SOP-IR-15 **Ref: DCA Preliminary Statement of Position, Article VII, Section C Implementation, p. 28**

- a. Does the Consumer Advocate envision a change in rate design philosophy, i.e., from cost of service to some other basis?

RESPONSE No.

- b. By what mechanism does the Consumer Advocate envision appropriate changes to the utility companies' rate structures, e.g., general rate case, etc.?

RESPONSE The changes to a utility's rate structure should ideally occur in conjunction with a general rate review where the utility's revenue requirement can be examined, along with the cost of service factors. The movement towards cost based rates, however, may occur over some reasonable future time period to avoid large increases/decreases to the rates charged a specific customer class. For example, if a determination was made that the rates for a specific class needed to be increased by 75% in order for the rates to be cost based, the Commission may want to consider implementing that increase over a three-year period where the rates for the class would be increased by 25% in each year of the three-year period.

TGC/CA-SOP-IR-16 **Ref: HECO Preliminary Statement of Position, Docket No. 03-0371, p. 15: “...in the case of customer-sited CHP systems and DG owned by third-parties, the Commission’s role is to review whether the retail sale of electricity by such third-party owners falls within the purview of the public utility statutes. To date, the Companies have not yet taken the position that these third-party owned installations should be regulated by the Commission, due to the relatively small number of such installations.”**

- a. Does the Consumer Advocate have a position on whether electricity generated by a CHP provider, behind the fence, on the premises of a user, for use by the user and not to deliver electricity to the grid, “falls within the purview of the public utility statutes”? Please explain. Does your answer change if the arrangement between the user and the third-party CHP provider is on a “share-the-savings” basis?

RESPONSE

The Commission has already ruled on this matter, as TGC is aware. See for example, In re Wind Power Pacific Investors-III, 67 Haw. 342, 686 P.2d 831 (1984), wherein the Hawaii Supreme Court relied upon the following discussion to determine when a person (or entity) is considered a public utility.

[W]hether the operator of a given business or enterprise is a public utility depends on whether or not the service rendered by it is of a public character and of public consequence and concern, which is a question necessarily dependent on the facts of a particular case, and the owner or person in control of property becomes a public utility only when and to the extent that his business and property are devoted to a public use. The test is, therefore, whether or not such person holds himself out, expressly or impliedly, as engaged in the business of supplying his product or service to the public, as a class, or to any limited portion of it, as contradistinguished from holding himself out as serving or ready to serve only particular individuals.¹

¹ See 73B C.J.S. Public Utilities § 3. See also Priest, supra, p. 10-13; Wilhite v. Public Service Commission, 150 W. Va. 747, 149 S.E.2d 273 (1966). 67 Haw. at 345, 686 P.2d 831 (1984).

- b. Please list every instance of which the Consumer Advocate is aware where a cogenerator producing power for consumption on the premises sought and received a determination from the Hawaii PUC that it was not holding itself out as engaged in the business of supplying its product or service to the public as a class or to any limited portion of the public and therefore was not a public utility.

RESPONSE

The Consumer Advocate is not aware of any such situation.

TGC/CA-SOP-IR-17 **Ref: Docket No. 03-0366 application, Exhibit C, p. 4, footnote 2 stating that the Consumer Advocate has proposed a more gradual elimination of class cross subsidies than the utilities**

- a. Please provide copies of any Commission precedent or other authority under which the Consumer Advocate has been operating in the elimination of class cross subsidies.

RESPONSE

As a utility in the State, TGC has access to all Decisions & Orders filed by the Hawaii PUC on this matter and could do its own research. In fact, this very issue was addressed in the rate design proposals presented in the Company's prior rate cases.

- b. Please explain the Consumer Advocate's position on the period of time over which class cross subsidies will be eliminated in light of new options, such as DG, now available to certain commercial and large power customers.

RESPONSE

This request is speculative and cannot be answered without knowing the extent of the existing subsidy and the impact on the customer class if the subsidy were removed.

- c. Please explain the Consumer Advocate's position on unbundling as related to the gradual elimination of class cross subsidies.

RESPONSE

See the response to subpart b. Without knowing the extent of the subsidy and the impact of removing the subsidy, especially when the rates are unbundled, it is difficult to respond.