

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR

DEAN NISHINA
EXECUTIVE DIRECTOR

**STATE OF HAWAII
DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 326

P.O. Box 541

HONOLULU, HAWAII 96809

Phone Number: 586-2800

Fax Number: 586-2780

cca.hawaii.gov/dca/

August 5, 2021

The Honorable Chair and Members of
the Hawaii Public Utilities Commission
Kekuanaoa Building
465 South King Street, 1st Floor
Honolulu, Hawaii 96813

Dear Commissioners:

RE: Docket No. 2014-0135 In the Matter of the Application of The State of Hawaii Department of Business, Economic Development, and Tourism For an Order Approving the Green Infrastructure Loan Program – Program Notification No. 14.

The purpose of this letter is to inform the Public Utilities Commission ("Commission") that the Division of Consumer Advocacy ("Division") has reviewed Program Notification No. 14 For the Green Infrastructure Loan Program and Attachment A filed by the State of Hawaii Department of Business, Economic Development, and Tourism ("DBEDT") on behalf of the Hawaii Green Infrastructure Authority ("HGIA") on July 21, 2021 ("PN 14"). Based on that review, notwithstanding the Consumer Advocate's remaining questions about whether sufficient information has been provided regarding the cost and benefits associated with the requested relief, the Consumer Advocate does not object to expanding the use and purpose of HGIA's State Revolving Loan Fund to finance purchase options in existing power purchase agreements ("PPA"), electric vehicles ("EV") and EV charging stations as proposed by HGIA in Attachment A, to the extent that the eligible funds are limited to those in the State Revolving Loan Fund and are subject to the repayment terms established for the State Revolving Loan Fund as part of Program Notification 13.¹ The Consumer Advocate further recommends that the Commission require HGIA to provide additional information as part of its quarterly reporting to provide consumers with greater visibility regarding the use of the State Revolving Fund.

A. Summary of HGIA's Proposal.

HGIA states that the purpose of this Program Notification is to provide additional information, in alignment with Act 107 (Session Laws of Hawaii ("SLH") 2021) ("Act 107"),² to expand the purpose of the State Revolving Loan Fund, a sub-fund within the Hawaii green infrastructure special fund.³ HGIA is seeking approval to expand the use and purpose of the State Revolving Loan Fund to allow eligible State departments and agencies to: (1) finance the purchase option in existing PPA(s); (2) use the savings created by owning the solar PV system to finance the installation of EV charging station(s); and (3) use the excess savings created by owning the solar PV system plus the operational and fuel cost savings achieved with the conversion of internal combustion vehicles to EVs, to finance the purchase or lease of electric vehicles, to assist with the electrification of State automobile fleets.⁴

Similar to its discussion in PN 13,⁵ HGIA notes that though government agencies are not listed as an underserved group in the Application⁶ and that it does not intend to include them in this category, Decision and Order No. 32318, filed on September 30, 2014 ("Program Order") "does not restrict the GEMS Program from providing government agencies access to eligible clean energy technologies in its approval."⁷ HGIA highlights that government agencies are "among those ratepayers who are hard-to-reach with traditional market-competitive financing agreements due to procurement limitations and the obligation to include contractual provisions which make the continuation of contracts contingent up on the allocation of funds."⁸

B. The Consumer Advocate's Recommendation.

Act 107 amends subsection (b) of HRS §196-65 to read:

² See Senate Bill No. 932 ("SB 932") SD2 HD1 CD1, signed into law on June 28, 2021. https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=932&year=2021

³ This sub-fund was established by Act 121 (SLH 2018) and is the subject of PN 13.

⁴ PN 14, at 5-6.

⁵ PN 13, at 12-13.

⁶ Application, filed by DBEDT in Docket No. 2014-0135 on June 6, 2014. Underserved customers are defined broadly as homeowners, renters, and non-profit customers that do not have access to high levels of upfront capital and/or financing. See Application, at 3, 23, and, 36; Application, Exhibit 6.

⁷ PN 14, at 9.

⁸ Ibid.

- (b) Moneys in the Hawaii green infrastructure special fund may be used, subject to the approval of the ~~[public utilities]~~ commission, for the purposes of:
 - (1) Making green infrastructure loans, including for installation costs for energy—efficient lighting and other energy—efficiency measures~~;~~, to finance the option to purchase solar energy systems and other clean energy equipment under existing power purchase agreements and energy performance contracts, finance the purchase or lease of electric vehicles, and to install electric vehicle charging systems;
 - (2) Creating a \$50,000,000 sub-fund, as a revolving line of credit within the Hawaii green infrastructure special fund, for any state agency to obtain financing to implement cost-effective energy-efficiency measures~~;~~, finance the option to purchase solar energy systems and other clean energy equipment under existing power purchase agreements and energy performance contracts, finance the purchase or lease of electric vehicles, and to install electric vehicle charging systems;⁹

It is the Consumer Advocate's understanding that HGIA is seeking Commission approval to expand the use of the State Revolving Loan fund pursuant to Section 196-65(b)(2).¹⁰ According to HGIA, as of June 30, 2021, the State Revolving Loan Fund had a total of \$4.3 million available, which reflects \$3.1 million of the original \$50 million that was allocated to the sub-fund plus principal payments made to the sub-fund.¹¹

The Consumer Advocate notes that that Act 107 also amended Section 196-62.5 as follows:

~~[] §196-62.5[]~~ **Financing for state government agencies.** (a) ~~[With the approval of the governor, a]~~ Any state agency may apply for financing, subject to availability under the revolving line of credit for fiscal year [2018 –2019,] 2021 - 2022, and annually thereafter, from the green infrastructure

⁹ See page 19 of SB 932 SD2 HD1 CD1.

¹⁰ It is the Consumer Advocate's understanding that HGIA is not requesting Commission approval regarding the clean energy and energy efficiency revolving loan fund, which was established as part of Act 107 and is not subject to Commission approval. SB 932 SD2 HD1 CD1, at 6-7.

¹¹ GEMS Program Quarterly Report, filed on April 29, 2021, at 9, and information provided by HGIA on August 5, 2021. The total including principal payments made to the sub-fund is expected to be available in the forthcoming GEMS Program Quarterly Report for the period ending June 30, 2021.

loan program pursuant to section 196-65(b)(2), upon terms and conditions as are agreed to between the department or agency and the Hawaii green infrastructure authority; provided that the loans shall be issued at an interest rate of 3.5 per cent a year; provided further that the loans shall not adversely affect the sustainability of the sub-fund or Hawaii green infrastructure special fund such that the replenishment of funds requires a higher interest rate in other financing agreements or an appropriation from the general fund...

(d) Beginning with fiscal year ~~[2018-2019,]~~ 2021-2022, and annually thereafter, an agency shall repay a loan issued pursuant to subsection (a) using general revenue savings that result from reduced ~~[utility]~~ energy costs due to ~~[implementation of]~~ financing the purchase of solar energy systems or other clean energy equipment, implementing energy-efficient lighting and other energy-efficiency measures [-], as well as operational and fuel cost savings achieved by the conversion of internal combustion vehicles to electric vehicles.

Based on the understanding that HGIA is requesting to expand the purposes for which utility consumer provided funds may be used, the Consumer Advocate believes that inadequate cost/benefit information has been provided, but the Consumer Advocate does not object in this instance to HGIA's request to the extent that the eligible funds are limited to those in the State Revolving Loan Fund and are also subject to the repayment conditions established for the State Revolving Fund under Order No. 35492 Conditionally Approving Program Notification No. 13, filed on May 30, 2018 ("Order No. 35492"), as clarified by Order No. 35561 Granting Hawaii Green Infrastructure Authority's Motion for Clarification of Order No. 35492, filed on June 29, 2018 ("Order No. 35561"). The Commission stated, in Ordering Paragraphs 3-5 of Order No. 35492:

3. The Authority shall apply any loan repayments made pursuant to PN13 toward the replenishment of the reduced Public Benefits Fee collections before the payment of GEMS Program administrative costs.
4. The Authority shall not use interest earned on repayments made pursuant to PN13 to replenish and/or grow the capital available under the revolving line of credit.
5. The Authority shall not deploy any funds to state agencies under Program Notification No. 13 in excess of borrowing amounts authorized by the Legislature.¹²

The Commission subsequently clarified that Order No. 35492 "permits [HGIA] to deposit principal repaid pursuant to PN13 into the revolving line of credit... and requires

¹² Order No. 35492, at 9-10.

interest paid pursuant to PN13 to be applied toward replenishment of the reduced Public Benefits Fee before the payment of GEMS Program administrative costs.”¹³

Consistent with the terms established for the State Revolving Fund under PN 13, the Consumer Advocate believes that any interest paid pursuant to loan repayments made under PN 14 1) should be applied toward the replenishment of the Public Benefits Fee first, before the payment of GEMS Program administrative costs; and 2) should not be allowed to replenish and/or grow the capital available under the revolving line of credit. The Consumer Advocate also believes that the deployment of funds under PN 14 should not exceed the amount currently authorized by the Legislature for the State Revolving Fund.

Finally, to provide greater transparency regarding the use of monies in the State Revolving Fund, the Consumer Advocate recommends that HGIA be required to include as part of its quarterly reports:¹⁴

- The number and value of loans made to finance PPA purchase options.
- The number and value of loans made to finance EVs and EV charging stations.
- Principal repaid into the State Revolving Fund.
- Remaining principal in the State Revolving Fund that is eligible to be deployed.

In sum, the Consumer Advocate does not object to the Commission’s approval of PN 14, to the extent that the eligible funds are limited to those in the State Revolving Loan Fund and are subject to the repayment terms established for the State Revolving Loan Fund as described herein. The Consumer Advocate further recommends that the Commission require additional reporting requirements to provide consumers with greater visibility regarding the use of the State Revolving Fund. Finally, the Consumer Advocate appreciates that HGIA offers a discussion of cost-benefit analysis but, as noted above, there are remaining questions about the sufficiency of the cost-benefit analysis. The discussion is a high-level discussion of general facts related to the electrification of transportation and does not offer program specific information that would allow an objective assessment of whether the funds will be used in a fashion to mitigate risks related to the funds collected from utility customers. Notwithstanding this concern, the Consumer Advocate does not object to the expanded use of the State Revolving Fund as described by PN 14 at this time but contends that should HGIA request approval to use the proceeds of the GEMS bonds to more broadly finance purchase options in existing

¹³ Order No. 35561, at 6-7.

¹⁴ Quarterly Reports are required pursuant to Decision and Order No. 32318, filed on September 30, 2014, at 96-97.

PPAs, EVs, and EV charging stations, further information should be provided to justify the use of ratepayer funds.¹⁵

The Consumer Advocate appreciates the opportunity to provide these comments for the Commission's consideration.

Sincerely yours,

/s/ Dean Nishina
Dean Nishina
Executive Director

DN:te

c: Kevin Katsura
Gregg J. Kinkley
Melissa Miyashiro
Robert Mould

¹⁵ For example, the market assessment for the refinancing of PPAs should establish the number of customers with existing PPAs, the approximate term lengths and payments remaining on the PPAs, and the savings associated with the PPAs. The Consumer Advocate notes that although PN 14 includes a "representative example" of the savings that would become available under the expanded State Revolving Fund, no support was provided to establish why this example is representative or to identify the parameters of the market. The cost-benefit analysis should explain not only how the proposed financing benefits participants, but also how the proposal is expected to impact ratepayers (i.e. cost-benefit to *all* ratepayers), including an assessment of the risk(s) of loan default or other factors that affect the funds that must be collected from ratepayers. This type of justification is already required but, under the current economic conditions brought about by the ongoing COVID-19 pandemic, the ability of ratepayers to further support broad areas of the clean energy technology market is further constrained and either support that justifies a finding that it will not adversely affect non-participants should be required or other sources of funding should be sought.

FILED

2021 Aug 05 AM 11:34

PUBLIC UTILITIES
COMMISSION

The foregoing document was electronically filed with the State of Hawaii Public Utilities Commission's Document Management System (DMS).