BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

---- In the Matter of ----

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to
Investigate the Implementation of
On-Bill Financing.

DOCKET NO. 2011-0186

DECISION AND ORDER NO. 30974

FILED

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PUBLIC UTILITIES
COMMISSION

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---- In the Matter of ---- PUBLIC UTILITIES COMMISSION Instituting a Proceeding to Investigate the Implementation of On-Bill Financing.	 Docket No. 2011-0186 Decision and Order No. 30974

DECISION AND ORDER

By this Decision and Order, the commission: (1) determines that an on-bill financing program for all electric utility customers in the State of Hawaii ("State") can be viable, contingent upon the details of the on-bill financing program design; (2) specifies parameters of program components necessary for a viable on-bill financing program; (3) directs Kauai Island Utility Cooperative ("KIUC") to complete their investigation of on-bill financing[1] and requires KIUC's participation in the informal ongoing processes of on-bill program development lead by the commission; (4) establishes an on-bill financing working group to continue discussions and development of an on-bill financing program including the development of a tariff for such a program; and (5) determines that the establishment of the on-bill financing program in the State will take the place of the proposed Simply Solar Pilot Program as established in

[1]See KIUC's Comments regarding draft on-bill financing study filed on December 11, 2012 ("KIUC's Comments") at 3.

Transmittal 11-06 and thus denies the Simply Solar Tariff Application by Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), Maui Electric Company, Limited ("MECO") (collectively, the "HECO Companies").

I.

Background

On July 8, 2011, the Governor of the State of Hawaii signed into law House Bill 1520, HD2, CD1 as Act 204 Session Laws of Hawaii 2011 ("Act 204"). Act 204 created a new section of Hawaii Revised Statutes ("HRS"), §269-125, that directs the commission to investigate an on-bill financing program for residential electric utility customers and authorizes the commission to implement the program by decision and order or by rules if the on-bill financing program is found to be viable.

The intent of on-bill financing is to allow electric utility company customers to finance purchases of renewable energy systems or energy efficient devices, with a focus of making renewable energy and energy efficiency more accessible to the rental market and other underserved markets, by providing for billing and payment of such a system or device through an assessment on the electric utility customer's monthly bill.

Act 204 states that, in investigating the on-bill financing program, the commission may consider the following:

(1) The costs and benefits associated with the establishment and administration of the program;

(2) The availability of the program to effectively provide lifecycle cost savings to participating electric utility company customers;

(3) The ability of the program to make renewable energy and energy efficiency more accessible to the rental market and other underserved markets;

(4) Methods to structure the program to ensure that any public benefits fee funds are spent cost-effectively and in compliance with applicable statues;

(5) The use of non-ratepayer funds or private capital to provide financing for renewable energy systems or energy efficient devices acquired through the program;

(6) Reasonable penalties, which may include fines and disconnection of utility services for nonpayment of on-bill financing costs;

(7) The ability of an electric utility company to recover costs incurred due to the program; and

(8) Other issues the public utilities commission deems appropriate.

On August 15, 2011, the commission opened an investigation to examine the implementation of an on-bill financing program for residential electric utility customers in the service territories of HECO, MECO, HELCO, and KIUC in response to Act 204 Session Laws of Hawaii 2011. The order named the following parties: HECO, HELCO, MECO, KIUC, Blue Planet Foundation ("Blue Planet"), Hawaii Energy, and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate").

Hawaii Renewable Energy Alliance ("HREA"), Hawaii Solar Energy Association ("HSEA"), the Department of Business, Economic Development, and Tourism ("DBEDT"), Sierra Club, SolarCity and Ulupono Initiative LLC ("Ulupono") filed Motions to Intervene.

On September 20, 2011, the commission issued orders granting the motions to intervene filed by HSEA, HREA, Sierra Club, DBEDT and SolarCity; and denying Ulupono's motion to intervene.

On October 13, 2011, the HECO Companies, KIUC, Blue Planet, Hawaii Energy, the Consumer Advocate, HREA, HSEA, DBEDT, Sierra Club, and SolarCity (collectively the "Parties") agreed upon a Stipulated Procedural Order, which the commission approved. The Stipulated Procedural Order stated that:

> The primary objective of this proceeding is to determine (A) whether on-bill financing is viable and should be established by the commission; and (B) if so, what parameters, components, restrictions and requirements should be established as part of the design of an on-bill financing program to ensure that the program is and will remain viable and in the public interest.
>
> In order to assist the commission in its determination of the above, the following issues shall be considered as part of this docket:
>
> (1) What are the costs and benefits associated with the establishment and administration of the program?
>
> (2) Will the program effectively provide lifecycle cost savings to participating electric utility company customers?
>
> (3) What is the ability of the program to make renewable energy and energy efficiency more accessible to the rental market and other

underserved markets (e.g. commercial customers or customers below a certain income level)?

(4) How can an on-bill financing program be structured to ensure that any public benefits fee funds are spent cost-effectively and in compliance with applicable statutes?

(5) How can the program access and/or leverage non-ratepayer funds or private capital to provide financing for renewable energy systems or energy efficient devices acquired through the program?

(6) What requirements should be imposed to ensure repayment and recovery of on-bill financing costs, and what rights and obligations should be established for nonpayment? This should consider the legality and feasibility of fines, penalties, and disconnecting utility services for nonpayment?

(7) What methods should be established or utilized to allow an electric utility company and any other entity(ies) responsible for implementing or administering an on-bill financing program to recover costs incurred due to the program?

(8) What entities should be allowed to provide financing under an on-bill financing program?

(9) What parameters, components, restrictions and requirements should be established as part of the design of an on-bill financing program? This shall include a consideration of, among other things, the process for evaluating the program, making modifications to the program, and reporting requirements.

(10) What entity(ies) should be responsible for the implementation and/or administration of an on-bill financing program?

(11) What are alternative options to on-bill financing that would meet the intent of Act 204 to increase access to renewable energy systems and energy efficiency measures?[2]

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[2]Order Approving Stipulated Procedural Order, Exhibit A, at 4-5.

On December 30, 2011, the HECO Companies filed Transmittal No. 11-06, requesting approval to establish a residential customer tariff and related pilot program and recovery of pilot program costs, seeking to establish a Simply Solar Pilot Program and other related matters ("Simply Solar Tariff"). The HECO Companies filed their transmittal pursuant to HRS §§269-12(c) and 269-16(b) and Hawaii Administrative Rules ("HAR") §§6-61-111, 6-61-74, and 6-61-75, and requested an effective date of February 1, 2012. On January 31, 2012, the commission suspended Transmittal No. 11-06 and consolidated the review of the Simply Solar Tariff with this docket, by Order No. 30149.

The consolidation of the Simply Solar Tariff review with this docket resulted in the review of additional related issues, prompting the commission to allow for interested persons to file motions to intervene or participate in the consolidated proceeding.[3] HONEYWELL INTERNATIONAL INC ("Honeywell") filed a Motion to Participate without Intervention on February 21, 2012. On March 9, 2012, the commission granted Honeywell's motion.[4]

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[3]See Order No. 30149, filed on January 31, 2011, in Docket No. 2011-0186, at 13.

[4]See Order No. 30255, filed on March 9, 2012, in Docket No. 2011-0186, at 6.

On March 16, 2012, the commission issued information requests to the HECO Companies regarding the Simply Solar Tariff, to which the HECO Companies responded on April 2, 2012.[5]

On April 16, 2012, the commission issued a revised procedural schedule for Docket No. 2011-0186.[6] The commission also issued a letter to the Parties and Participant providing Harcourt Brown & Carey's ("Consultant" or "HBC") review of the Simply Solar tariff: *Simply Solar Proposal Assessment* ("Simply Solar Assessment").[7] On May 7, 2012, DBEDT, Sierra Club, Blue Planet, HREA, HSEA, Hawaii Energy, and the HECO Companies filed comments on the Simply Solar Assessment ("SSA Comments").[8] The Consumer Advocate filed their

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[5]See letter from the commission to Dean Matsuura of HECO, dated March 16, 2012 and letter from Dean Matsuura of HECO to the commission, dated April 2, 2012.

[6]See Order No. 30330, Amending the Schedule of Proceedings, filed on April 16, 2012, in Docket No. 2011-0186.

[7]See letter from the commission to the Parties and Participant, dated April 16, 2012, transmitting the Simply Solar Assessment.

[8]See Department of Business, Economic Development, and Tourism's Brief on the Harcourt Brown & Carey Assessment of HECO Companies' Simply Solar Proposal and Certificate of Service ("DBEDT's SSA Comments"), filed on May 7, 2012; Sierra Club Comments on the Simply Solar Proposal Assessment by Harcourt Brown & Carey Dated April 16, 2012, and Certificate of Service ("Sierra Club's SSA Comments"), filed on May 7, 2012; Blue Planet Foundation's Brief on Commission's Consultant's Simply Solar Program Assessment Filed April 16, 2012 and Certificate of Service ("Blue Planet's SSA Comments"), filed on May 7, 2012; Hawaii Renewable Energy Alliance's Joinder to Blue Planet Foundations' Brief on the Commission's Consultant's Simply Solar Program Assessment filed on April 16, 2012 and Certificate of Service ("HREA's SSA Comments"), filed on May 7, 2012; Hawaii

SSA Comments on May 24, 2012, after the commission granted it an extension of time.[9]

On November 13, 2012, the commission provided the Parties and Participant with a draft of the HBC report *On-Bill Financing in Hawaii* ("Draft On-Bill Financing Report").[10]

The commission amended the schedule of proceeding for the instant docket by Order No. 30841, filed on November 23, 2012, recognizing that the record in this proceeding would benefit from additional opportunity for the Parties and Participant, if they so choose, to submit additional components for the commission's consideration and allowing the Parties and Participant to comment on the additional submissions. Specifically, Order No. 30841: (1) extended the due date to file

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Solar Energy Association's Comments on the Simply Solar Tariff Review by Harcourt Brown & Carey and Certificate of Service ("HSEA's SSA Comments"), filed on May 7, 2012; Hawaiian Electric Companies Comments on Harcourt Brown & Carey Review of the Simply Solar Tariff ("HECO Companies' SSA Comments"), filed on May 7, 2012; and Public Benefit Fee Administrator's Comments and Certificate of Service ("Hawaii Energy's SSA Comments"), filed on May 7, 2012.

KIUC, through its outside regulatory counsel, Morihara Lau and Fong LLP, informed the commission that it takes no position on HBC's Simply Solar Proposal Assessment, Dated April 16, 2012. See Letter from Kris Nakagawa to the commission, dated and filed on May 7, 2012.

[9]See letter from Jeffrey T. Ono to the commission, dated and filed on May 7, 2012 and Order No. 30381, filed on May 14, 2012, approving the Consumer Advocate's May 7, 2012 request for extension of time.

[10]See letter from the commission to the Parties and Participant, dated and filed on November 13, 2012.

comments on the Consultant's Draft On-Bill Financing Report as requested by the Blue Planet Foundation and supported by the parties;[11] (2) requested Parties/Participant to submit proposals for on-bill financing program components; (3) allowed the Parties/Participant to submit rebuttal comments to proposed program components and submitted comments; (4) amended the deadline for the submission of the Consultant's final on-bill financing study report; and (5) set a date for a technical meeting with the Parties and Participant.

On December 11, 2012, the Parties submitted comments and additional on-bill financing component proposals.[12]

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[11]On November 20, 2012, Blue Planet, on behalf of the Parties and Participant, requested an extension of time, from November 27, 2012 to December 11, 2012, to file comments to the consultant's draft study, filed on November 13, 2012. The commission granted the extension, by Order No. 30841, issued on November 23, 2012.

[12]See Hawaii Renewable Energy Alliance's Comments to the Harcourt Brown & Carey On-Bill Financing Study Draft Report and Potential On-Bill Program Components and Certificate of Service ("HREA's Comments"), filed on December 11, 2012; Blue Planet Foundation's Comments on Commission's Consultant's Draft On-Bill Financing Report Dated November 12, 2012 and Certificate of Service ("Blue Planet's Comments"), filed on December 11, 2012; Hawaii Solar Energy Association's Comments on On-Bill Financing in Hawaii Prepared by Harcourt Brown & Carey and Certificate of Service ("HSEA's Comments"), filed on December 11, 2012; Sierra Club's Comments on the On-Bill Financing in Hawaii Report by Harcourt Brown & Carey filed on November 13, 2012 and Certificate of Service ("Sierra Club's Comments"), filed on December 11, 2012; Kauai Island Utility Cooperative's Comments Regarding Draft On-Bill Financing Study and Certificate of Service ("KIUC's Comments"), filed on December 11, 2012; Division of Consumer Advocacy's Comments on Commission's Consultant's On-Bill Financing in Hawaii Report Filed on November 13, 2012 ("Consumer Advocate's Comments"), filed on December 11, 2012; Hawaiian Electric Companies' Comments on Harcourt Brown & Carey

On December 28, 2012, the Parties submitted rebuttal comments to other Parties' comments on proposed on-bill financing program components.[13]

On January 4, 2013, the commission provided the Parties and Participant with the final report *On-Bill Financing in Hawaii* prepared by HBC ("Final On-Bill Financing Report").[14]

On-Bill Financing in Hawaii Report ("HECO Companies' Comments"), filed on December 11, 2012; Public Benefit Fee Administrator's Comments on Draft On-Bill Financing Study Report ("Hawaii Energy's Comments"), filed on December 11, 2012; and The Department of Business, Economic Development and Tourism's Comments to the On-Bill Financing Study and Component Proposals and Certificate of Service ("DBEDT's Comments"), filed on December 11, 2012.

[13]See Hawaii Solar Energy Association's Rebuttal Comments to the On-Bill Financing Study Proposals and Comments to the On-Bill Financing Draft Study Prepared by Harcourt Brown & Carey and Certificate of Service ("HSEA's Rebuttal Comments"), filed on December 28, 2012; Hawaiian Electric Companies' Rebuttal Comments on Harcourt Brown & Carey On-Bill Financing in Hawaii Report ("HECO Companies' Rebuttal Comments"), filed on December 28, 2012; Hawaii Renewable Energy Alliance's Rebuttal Comments on Proposals and Comments to the Commission's Consultant's Draft On-Bill Financing Report Dated November 12, 2012 and Certificate of Service ("HREA's Rebuttal Comments"), filed on December 28, 2012; Blue Planet Foundation's Rebuttal Comments on Proposals and Comments to Commission's Consultant's Draft On-Bill Financing Report Dated November 12, 2012 and Certificate of Service ("Blue Planet's Rebuttal Comments"), filed on December 28, 2012; The Department of Business, Economic Development, and Tourism's Rebuttal Comments to the On-Bill Financing Study Proposals and Comments on Draft Study and Certificate of Service ("DBEDT's Rebuttal Comments"), filed on December 28, 2012; Division of Consumer Advocacy's Rebuttal Comments to On-Bill Financing Proposals and Comments Filed December 11, 2012 on Commission's Consultant's On-Bill Financing in Hawaii Report Filed November 13, 2012 ("Consumer Advocate's Rebuttal Comments"), filed on December 28, 2012; and Sierra Club's Rebuttal Comments to On-Bill Financing Proposals and Comments Filed on December 11, 2012 and Certificate of Service ("Sierra Club's Rebuttal Comments"), filed on December 28, 2012.

The commission held a technical meeting on January 9, 2013 to discuss the findings of the Consultant's Final On-Bill Financing Report and Parties'/Participant's proposals and/or comments to the study[15]. In addition, the Parties and Participant were given the option to file additional comments for the record after the technical meeting by January 16, 2013.[16] HREA, Sierra Club, Blue Planet, the Consumer Advocate, and HECO submitted comments on January 16 ("Voluntary Comments").[17]

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[14]See letter from the commission to the Parties and Participant, transmitting the Final On-Bill Financing Report, dated and filed on January 4, 2013.

[15]See Order No. 30841, filed on November 23, 2012, in Docket No. 2011-0186, at 3 - 4.

[16]See Letter from the commission to the Parties and Participant, dated and filed on January 10, 2013, informing them of the option to voluntarily provide comments to the commission based upon the comments made during the technical meeting held on January 9, 2013.

[17]See HREA's Voluntary Submissions after January 9, 2012 Technical Meeting ("HREA's Voluntary Comments"), filed on January15, 2013; Sierra Club's Follow-Up Comments Regarding January 9,2013 Technical Meeting Discussions ("Sierra Club's Voluntary Comments"), filed on January 16, 2013; Blue Planet Foundation's Supplemental Comments and Certificate of Service ("Blue Planet's Voluntary Comments"), filed on January 16, 2013; Division of Consumer Advocacy's Voluntary Submissions After January 9, 2013 Technical Meeting ("Consumer Advocate's Voluntary Comments"), filed on January 16, 2013; and Hawaiian Electric Companies' Submission of Comments Based on January 9, 2013 Technical Meeting ("HECO Companies' Voluntary Comments"), filed on January 16, 2013.

II.

Consultant Analysis and Parties' Positions

As noted in Section I., above, the commission received extensive guidance from its Consultant, the Parties, and the Participant relating to, among other things, the viability of an on-bill program in the State and the kinds of components that would be necessary to create a successful program. Summarized below are the Consultant's, Parties' and Participant's positions on the program components for inclusion by the commission in an on-bill financing program. Followed by comments regarding the Simply Solar Tariff and KIUC's participation in on-bill financing program.

A.

On-Bill Financing Program Components

1.

Program Participants

> Consultant recommendation: All residential households (owners and tenants) should be eligible to participate.[18]
>
> In general, the Parties agree that all residential customers should be eligible; however, Blue Planet,[19] DBEDT,[20] HREA,[21] and Sierra Club[22] all

[18]See Final On-Bill Financing Report at 2 and 14.

[19]Blue Planet's Comments at 14.

[20]DBEDT's Comments at 5.

feel that commercial customers should be given consideration for participation. The HECO Companies feel that the program should be designed for the residential market, focusing on residents in single-family homes and town homes.[23] Moreover, the HECO Companies suggest limiting the program to "residential customers on Schedule R, Schedule TOU-R and Schedule TOU-EV, including renters on those rate schedules."[24] The Consumer Advocate states that all customers should be eligible to participate but also contends that "it is unlikely that there is a single on-bill financing program that fits all".[25] The Consumer Advocate also encourages an analysis of cost-effectiveness of on bill financing as compared to other existing or planned energy efficiency programs in Hawaii.[26]

2.

Eligible measures

Consultant recommendation: The financing program could support solar photovoltaic ("PV"), solar thermal water heating and all permanently installed energy improvements . . . referenced in the 2011 Technical Reference Manual[27,28]

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[21]HREA's Comments at 3.

[22]Sierra Club's Comments at 2 and 6.

[23]HECO Companies' Comments at 1.

[24]HECO Companies' Voluntary Comments, filed on January 16, 2013, at 1.

[25]Consumer Advocate's Comments at 6.

[26]Id. at 7 and 9.

[27]Hawaii Energy Efficiency Program Technical Reference Manual No. 2011 may be found at the following location: http://www.hawaiienergy.com/media/assets/PY11-HawaiiEnergyTRM-FINAL-20120814.pdf

[28]Final On-Bill Financing Report at 2 and 15.

The consultants recommend that the program encourage customers to invest in energy efficiency prior to investing in renewable energy, but that such improvements are not required for program participation. Requiring the energy efficiency improvements adds complexity and could be counterproductive to the State's overall goals of reducing dependence on imported fuels and encouraging renewable energy.[29]

HSEA agrees that permanently installed measures should be included, and although HSEA notes support for energy efficiency measures, it does not support the addition of appliances as they could potentially move with the customer.[30]

Some of the Parties would like to see, require, or strongly recommend evidence of efficiency measures and solar water heating upgrades before allowing on-bill financing of PV (HSEA,[31] HREA,[32] Consumer Advocate[33]). This would ensure correct PV system sizing. Hawaii Energy recommends that a "participant should be required to go through an energy audit and take some kind of energy conservation and efficiency awareness training. Another precondition would be to require installation of solar water heating (if feasible) before any financing of renewable energy generation such as PV or wind."[34]

The Sierra Club recommends that prescriptive conditions on customer participation should be avoided. However, the Sierra Club does agree with educating customers of the benefits and costs of

[29]Id. at 15.

[30]HSEA's Rebuttal Comments at 4.

[31]HSEA's Comments at 4.

[32]HREA's Comments at 3.

[33]Consumer Advocate's Rebuttal Comments at 5.

[34]Hawaii Energy's Comments at 3.

various options while leaving the customers free to decide.[35]

On the other hand, HECO states that "[o]nly solar water heating and solar PV measures should be eligible, with solar PV only available to renters."[36] HECO also notes that "the cost of repair and maintenance to meet equipment warranty requirements for residential measures will likely be higher under an on-bill financing program compared to a traditional loan agreement." The HECO Companies further suggests that corporate owners may be held to a higher standard for maintenance documentation for warranty purposes, and "the capital provider will need to recover the cost of insuring the installed equipment against damage or damage to the premises (e.g., from leakage)—an additional cost that would not necessarily be incurred under a traditional loan arrangement."[37]

3.

Bill Neutrality

Consultant Recommendation: Eligible projects must achieve "bill neutrality" defined as the energy savings exceeding the project costs when financed over 12 years.[38]

The Consultant's discussion in its reports indicates that bill neutrality is an important feature in an on-bill program, especially when the program includes the ability to transfer payment obligations from one occupant to the next and when

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[35] Sierra Club's Comments at 9-10.

[36] HECO Companies' Voluntary Comments at 2.

[37] Id. at 3.

[38] Final On-Bill Financing Report at 2 and 16.

the penalty for failure to pay is disconnection.[39]

In response to party discussions that programs require the program participant's bill to include significant savings beyond bill neutrality, the consultants recognized that additional savings would increase the enticement for consumers to participate and provide a buffer to allow for deviations between actual and achieved savings. However, this additional requirement could reduce the number of eligible participants since fewer customers will be able to achieve the savings required to meet the bill neutrality component without increasing the financing term.[40]

HREA recommends that the program should be designed for 20-25% bill reduction.[41] HSEA agrees that bill neutrality is key to a successful program but is concerned about the 12-year funding cycle recommended by the Consultants.[42] The Consumer Advocate indicated that bill neutrality is important.[43]

4.

Program financing product (loan/tariff)

Consultant Recommendation: The program should be a service offered to customers as a tariff.[44] HREA agrees.[45] The Sierra Club also suggests that

[39] Id. at 9.

[40] Id. at 16.

[41] HREA's Comments at 4.

[42] HSEA's Comments at 2 and 3.

[43] Consumer Advocate's Comments at 10.

[44] Final On-Bill Financing Report at 2 and 17.

[45] HREA's Comments at 2.

a service-based[46] program should be flexible toward the underlying financing method and allows the transfer of the financial obligation with changes in the occupants.[47] While the Parties did not indicate a strong need for a tariff structure, they did express an inherent desire for transferability of the payments between successive owners/tenants, which requires a tariff structure that is tied to the electricity meter rather than the equipment.

The HECO Companies expressed concern that a "loan-based program may expose the program, utilities, and the commission to additional lending and banking regulations that could increase program complexity and costs."[48]

5.

Transferabililty

Consultant recommendation: The installation benefits and payments should be transferable to the successor owners/tenants.[49]

Blue Planet agrees with the Consultant's recommendation.[50] HREA also agrees that installation benefits and payments should be transferable, but notes that much more work is required to establish the details of transfer.[51] The Consumer Advocate asserts that bill neutrality is an important feature of the program that

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[46]Service-based and tariff-based are used interchangeably by Sierra Club. See Sierra Club's Rebuttal Comments, filed December 28, 2012, at 6.

[47]Sierra Club's Comments at 3, 6.

[48]HECO Companies' Voluntary Comments at 5.

[49]On-Bill Financing Report at 2 and 18.

[50]Blue Planet's Comments at 10.

[51]HREA's Comments at 5.

affects the transferability of the payment obligation to successive home occupants.[52]

6.

Collections procedures and shut off

Consultant Recommendation: The procedures for non-payment should follow the commission approved procedures for utility tariff non-payment, including shut-off.[53] The consultant also recommends a pari passu payment distribution[54] in the event of partial payment, as a benefit to financers.[55]

Blue Planet,[56] Sierra Club,[57] and HREA[58] agree with the consultant's recommendation. The HECO Companies recommend that utility charges are paid off fully prior to allocating any funds to on-bill financing charges.[59]

[52]Consumer Advocate's Comments at 10.

[53]Final On-Bill Financing Report at 2 and 18.

[54]Pari passu payment distribution means the total payment, regardless of the amount, will be distributed in the same weighted proportion as the proportion of the entire bill. For example, if 80% of the customer's bill is for the energy charge and 20% is for the energy project, the total payment will be distributed in that percentage.

[55]Final On-Bill Financing Report at 21 and 22.

[56]Blue Planet's Comments at 10.

[57]Sierra Club's Comments at 4, (noting that pari passu division is a basic element of on-bill repayment).

[58]HREA's Comments at 5.

[59]HECO Companies' Comments at 8.

7.

Program Administration and Marketing

Consultant recommendation: Hawaii Energy should be integral to program marketing and operations.[60] The program should be contractor-centric and participating contractors will be certified and managed to maintain a high level of installation quality.[61] The Consultant did not provide a specific recommendation for an advertising or marketing budget for the program, but did indicate "that a robust budget be allocated for marketing and the finance program."[62] The Consultant noted that when marketing budgets were reduced for programs in other states, the number of customers aware of the financing program quickly dropped. The Consultant recommends "a budget in the range of $3,000,000-$5,000,000, somewhat greater than a cost of $1,000 per participant in the initial years."[63]

DBEDT commented that the program should minimize the marketing and advertising costs by using state and local agencies, community organizations, property manager groups and other entities.[64] Hawaii Energy contends that it is the "natural and 'efficient' choice to administer the on-bill financing program."[65] HREA agrees with the Consultant recommendation that the program should be contractor-centric.[66] The Consumer Advocate

[60]Final On-Bill Financing Report at 2 and 19.

[61]Id. at 2.

[62]Final On-Bill Financing Report at 19.

[63]Id. at 20.

[64]DBEDT's Comments at 7.

[65]Hawaii Energy's Comments at 2.

[66]HREA's Comments at 5.

also believes lower cost marketing alternatives need to be considered.[67] The Sierra Club does not express any preconceived choice for the position of third-party administrator but does want the commission to consider retaining an administrator at an early stage, so the entity can engage in the program design phase as well as implementation of the program.[68]

8.

Finance Program Structure

Consultant Recommendation: (a) An appropriate capital source and service provider, selected through an RFP process, should support the program.

(b) The basis for funding the on-bill program should be the public benefit fund ("PBF") or a ratepayer/member fee, leveraged with third-party capital.[69]

Blue Planet "strongly supports the use of third-party capital to ensure a sufficiently large and robust on-bill financing program fund.[70] HREA suggests the PBF be used only if customer repayments are insufficient to generate sufficient funding.[71] The HECO Companies expressed concerns about the risk to ratepayers under the Consultant's and DBEDT's proposal of using ratepayer funds to secure low cost capital because ratepayers may have to take the risk of having to

[67]Consumer Advocate's Comments at 10.

[68]Sierra Club's Comments at 2.

[69]Final On-Bill Financing Report at 2 and 20.

[70]Blue Planet's Comments at 8.

[71]HREA's Comments at 5.

pay for the monthly payment delinquencies and obligation defaults by participants.[72]

DBEDT supports the Consultant's recommendation that the PBF should be leveraged and "supports the consideration of alternative structures to leverage the PBF with third party capital."[73] DBEDT also proposes that the on-bill program should be agnostic to the source of capital with a focus on obtaining the lowest cost pool of capital. Their proposed financing mechanism, though vague on details, "goes beyond what [the Consultant] proposes in its discussion of the sources of funds leveraging the PBF with private funds."[74]

DBEDT also suggests deployment of low cost capital in an on-bill program by utilizing an existing network of installers and vendors[75]

The Sierra Club agrees that the on-bill program should be agnostic to the source of capital.[76]

9.

Ownership

Consultant recommendation: a taxable entity should own the equipment.[77]

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[72]HECO Companies' Voluntary Comments at 3.

[73]DBEDT's Comments at 8.

[74]Id. at 10.

[75]Id. at 11-12.

[76]Sierra Club's Rebuttal Comments at 8.

[77]Final On-Bill Financing Report at 25.

DBEDT suggests selecting the entity that is best situated to serve this role but did not offer a specific recommendation.[78]

10.

Scalability

Consultant recommendation: The Consultant recommends that Hawaii "benefit from an approach that tackles each market separately and one at a time, addressing the issues [in] the residential market and subsequently taking on the commercial market."[79]

Hawaii Energy suggests that "on-bill financing should start out as a conservatively small proof-of-concept program focused on residential hard-to-reach conservation, efficiency and renewable energy improvements."[80]

DBEDT offered that a phased approach may be taken in an effort to effectively implement the program, as there may not be a "one-size fits all" on-bill program that effectively serves all markets and types of energy infrastructure installations. Focusing initial implementation where there are existing products, business models, and supply chains will enable the program to quickly prove its merits and scale.[81]

The Consumer Advocate notes in its Voluntary Comments "In the technical meeting, the issue of the scale and source of funding was discussed. It was asserted that there is potential for establishing a lower cost of capital if the scale of the program is set higher; thus, economies of scale may be achieved. The Consumer Advocate acknowledges this potential, but would also ask

[78]DBEDT's Comments at 8.

[79]Final On-Bill Financing Report at p 7-8.

[80]Hawaii Energy's Comments at 3.

[81]DBEDT's Rebuttal Comments at 5.

> the Commission to also consider the potential risks that are being placed on the general ratepayers. Without a reasonable estimate of the market potential and uptake for any [on-bill financing], there is the possibility that a financing agreement will be executed, and without sufficient uptake, there will be inadequate revenue streams to cover the principal and interest repayment schedule for an improperly sized borrowing. As a result, the general ratepayers will then be required to bear those costs."[82]

B.

Simply Solar Program Proposal

The consultant recommended that the HECO Companies' Simply Solar Proposal be approved, with the following modifications:

1. Marketing: have the third-party administrator, or Hawaii Energy, implement and manage the marketing campaign.

2. Customer Information System: out-source origination, application intake, and servicing.

3. Disconnection: confirm that disconnection for non-payment of the Simply Solar Fee is consistent with all laws and utility regulations.

4. Rental property: request that the marketing campaign, the application process and the process for system transferability address rental properties as a unique market.

5. Source of funds: explore options to use 100% third-party debt financing of the capital costs and compensate the companies with a performance-based plan.

6. Simply Solar Fee Variability: evaluate the impact of fuel costs on the Simply Solar fee

[82]Consumer Advocate' Voluntary Comments at 2.

> annually, and consider program modifications at that time to limit negative program impacts due to changes in the cost of fuel.[83]

Most of the Parties generally agreed with the Simply Solar Assessment recommendations,[84] while stating that any implementation of that program should not interfere with or prejudice the ongoing on-bill financing investigation. DBEDT recommended that the Simply Solar Tariff implementation remain suspended "until the work in this docket has uncovered the best characteristics for an effective program that meets all the policy goals of Act 204."[85]

C.

<u>KIUC's On-Bill Financing Program</u>

KIUC stated in its comments on the Consultant's draft report:

> KIUC believes that as a not-for profit and member-owned electric cooperative (in which KIUC's customers and member-owners are essentially one and the same), KIUC, under the direction of its member-elected Board of Directors ("Board"), should have the right to determine whether the electric cooperative should implement an on-bill financing program, and if so, how to structure such program in a manner that is most beneficial to its members/customers. In that connection, KIUC notes that it has been

[83]Simply Solar Assessment at 23.

[84]<u>See</u> Blue Planet's SSA Comments at 2; Sierra Club's SSA Comments at 11; HSEA's SSA Comments at 6-7; Hawaii Energy's SSA Comments at 6; HREA's SSA Comments at 1; and Consumer Advocate's SSA Comments at 36.

[85]DBEDT's SSA Comments at 6.

> directed by its Board to investigate on-bill financing, as well as other alternatives that may allow for increased penetration of permanently installed energy improvements into the rental market. KIUC is currently undertaking this investigation, which it anticipates completing within the next six to nine months.[86]

The Consumer Advocate also believes that, "analysis should be conducted to analyze the Kauai market, especially to determine whether any synergies might be realized to reduce the costs for Kauai customers."[87] Blue Planet recommends that KIUC members be included in a Hawaii on-bill financing program.[88]

III.

Discussion

A.

Viability of an On-Bill Financing Program

Given the record developed by the Consultant, the Parties, and Participant, all of whom support some form of an on-bill financing program in the State, the commission finds that an on-bill financing program can be viable and should be established. However, the viability of an on-bill financing program depends on the details of the program's components and design. Since the record in the instant proceeding is insufficient to establish a detailed program design and tariff

[86]KIUC's Comments at 3.

[87]Consumer Advocate's Comments at 5.

[88]Blue Planet's Comments at 2 and 15.

for an on-bill program at this juncture, the commission will establish a working group to address those areas where additional investigation, discussion, and development of program design and component details are appropriate and necessary. The commission makes clear that its on-bill financing working group, established in Section III.D. of this Decision and Order, shall reference the commission's decisions on these components in developing the program design and components for implementation.

B.

Program Components for On-Bill Financing Program

Based upon the record in the instant docket, the commission determines that a viable on-bill financing program in the State will include the following components.

1.

Program Participants

The commission acknowledges that a non-discriminatory approach to participation that does not exclude customers in a specific rate class is in the best interest of the program. That said, however, one of the appealing aspects of on-bill financing is that it may make renewable energy and energy efficiency more accessible to the rental and other underserved markets. As the Consumer Advocate indicated, "most of the past and current programs have not been designed to encourage renters and low-income customers in adopting energy efficiency or renewable energy infrastructure, yet these very same customers have been required to subsidize programs that benefit other customers".[89]

With that sentiment in mind and to make renewable energy and energy efficiency more accessible to the rental market and underserved markets[90], the commission chooses to limit the eligible participants to those who are in residential and small business rate classes, in other words, customers on rate schedules R, TOU-R, TOU-EV and G. The administrative costs of a program should be concentrated on those who would not otherwise participate in any energy efficiency savings program or purchase a renewable energy generating device, and should focus on reaching those who cannot avail themselves of other, more traditional means of financing such devices.

2.

Eligible Measures

The commission agrees with the Consultant and HSEA, that all permanently installed measures that meet the requirements set forth for bill neutrality should be eligible measures for the State's on-bill financing program. Because the nature of an on-bill financing program that is tariff-based ties

[89]Consumer Advocate's Voluntary Comments at 2.

the payback of the equipment fees to the meter, only permanently installed measures that cannot be removed from the property can be assured to remain on the premises between successive occupants of a property. Without this feature, the program would require considerably more oversight by participants and administrators to ensure that those making the payments are indeed benefitting from the measures.

The overall picture of an efficient energy distribution system includes measures taken by consumers to reduce consumption before installing generation equipment. The commission concludes that it is appropriate to require participants that avail themselves of on-bill financing for the use of renewable energy generating devices to participate in available and forthcoming demand response programs and ancillary service programs as a requirement to their use of financed renewable energy generation. These requirements will help lower the overall costs of operating the utilities' systems and reduce the burden that intermittent renewable energy generation places on the stability of the grids.

The commission notes that a viable program would benefit from encouraging that appropriate efficiency measures are considered first. Therefore, the commission concludes that an energy audit should be required before a participant receives any financing. In order to not discourage participation in the

[90]Act 204 line 20-22

on-bill financing program the adoption of energy efficiency recommendations of the audit will be at the discretion of the program participant; however, the amount of approved financing will only be for the "right-sized" generation system given the adoption of all cost-effective measures recommended to the participant through their energy audit. The details of the definition of "right-sized" shall be analyzed in the on-bill financing working group, and a recommendation made to the commission about the appropriate methodologies for determining such system sizes and the level of savings required.

The commission also notes that if any moneys from the Public Benefits Fee are used for an on-bill financing program that supports renewable energy generating devices, there must first be a change in statute for the public benefits fee use, set forth in HRS §§269-121 and 269-124. Accordingly, the on-bill financing working group is requested to offer proposed legislative amendments as soon as possible to enable use of the public benefits fee to fund appropriate generation devices.

3.

Bill Neutrality

The commission finds that bill neutrality is essential to the viability of an on-bill financing program to provide realizable savings for the program participants. Though the commission will not determine the specific percentage of savings necessary for program design without further information, the viability of a program is contingent upon a perceived savings. Also, if the penalty for non-payment is disconnection, bill neutrality will help to ensure that participants can afford their payments.

The calculation of the bill neutrality shall be based on the reasonable life of the equipment with a not-to-exceed maximum of 12 years and the payment calculation based on the price of equipment and electricity at the time of program enrollment. The commission recognizes that electricity prices can fluctuate; however, in purchasing any energy efficiency or renewable energy generation device, the customer must make a determination of the cost effectiveness of their purchase and be willing to take some risk should energy prices decline.

The level of savings, when calculated according to the terms specified herein, must be beyond "bill neutral" in order to encourage on-bill program adoption; however, the commission would like the working group to analyze and propose to the commission the specific level of customer savings necessary for an on-bill financing program.

4.

Program Structure

The commission concludes that any on-bill financing program should be structured as a service and tariff-based program, rather than a loan-based program. Because a primary target market of the program is the rental market, on-bill financing payment obligations must remain with the meter and not with the enrolled customer. The tariff-based program will allow for the transferability necessary for customers in that market and others.

5.

Transferability

As mentioned above, the commission concludes that a viable on-bill financing program should have transferable installation benefits and payments. The commission notes the concerns of the Consumer Advocate, since bill neutrality is also an important feature of a viable program and transferability of the service inherently changes consumption and thus changes the level at which bill neutrality is achieved. The commission directs the on-bill financing working group to further consider the interplay between bill neutrality and transferability.

6.

Collections procedures and shut-off

The commission concludes that procedures for non-payment should follow commission-approved procedures for utility tariff non-payment including shut off. The commission also determines that pari passu distribution of partial payments is appropriate. The HECO Companies and KIUC have a recovery component included in their base rates for uncollectable accounts. Given that a successful on-bill financing program should produce a reduction in the participant's electric utility bill, any additional risk to the utility should be immaterial. The commission notes that the issue of increased uncollectible accounts can be taken up by the on-bill financing working group, if deemed material and appropriate.

7.

Program Administration and Marketing

The Commission determines that a program administrator that serves as a point of contact for customers is a necessary part of a viable on-bill program. For the various reasons offered by the Parties, including Hawaii Energy, the commission determines that the public benefits fee administrator (currently Hawaii Energy) is the commission's preferred option to act as the program administrator upon establishment of the on-bill financing program.

The commission's selection herein of Hawaii Energy as its preferred option for the program administrator is conditioned upon the negotiation by the commission and Hawaii Energy of an acceptable scope and budget for this task. The commission reserves the right to pursue competitive procurement for the program administrator if agreement cannot be reached on a contract with Hawaii Energy.

The program should be contractor-centric, with a system to certify and manage contractors, and the program administrator working closely with contractors to maintain a high level of installation quality. In addition, the program administrator should also be responsible for customer selection, and play a substantive role in initial program design. The program administrator should also work closely with a financing program administrator who will coordinate the funding for on-bill program financing.

The commission considers marketing an important part of the program, and encourages marketing to be targeted to those underserved markets that the program is meant to attract. Marketing efforts may be coordinated by the program administrator, but should primarily be done by the participating contractors, who stand to gain considerable business from an un-tapped market.

8.

Finance Program Structure

The commission agrees with the Consultant's recommendation that there should be a financing program administrator obtained through a competitive procurement process. Additionally, the commission recognizes that such request for procurement process should be broad enough to include KIUC's on-bill financing needs, as well.

The commission requires that to the extent possible the financing program administrator should have the flexibility of obtaining and distributing capital from various sources. The commission recognizes that the success of the on-bill financing program is predicated on the success of the financing program obtaining reasonably low-cost money and the details of the financing is a necessary part of obtaining the low-cost capital.

The commission directs the on-bill financing working group to offer recommendations on how such a request for proposals should be designed and conducted, and requests suggestions to assist in the development and design of the financing aspects of the program.

9.

Ownership

The commission recognizes that ownership of the equipment is tied to the financing program and the supplier of the capital. Thus, the issue of ownership will, by necessity, be unresolved until there are clear program details, particularly with the financing administrator and sources of capital. In the meantime, the commission instructs that program development recommendations offered by the working group should be structured to ensure that owners/tax entities are able in some way to pass through a substantial portion of the savings to customers and that tax incentives available for eligible measures are maximized.

10.

Scalability

The commission agrees with the reservations expressed by the Parties in starting an on-bill financing program that is too large for the market. The commission acknowledges that additional savings can be obtained from economies-of-scale, should the market in Hawaii support the rapid uptake of on-bill financing; however, the development of a new program may require a "proof-of-concept" stage in order to gain widespread acceptance. The commission requests the on-bill financing working group to focus on the development of a scalable program that starts with all of the program components mentioned herein and has the capability to expand to a larger market, should it be successful and cost-effective.

C.

KIUC participation

Notably, Act 204 did not exclude utility cooperatives from the determination of on-bill financing program viability or from participation in an on-bill financing program. The commission directs KIUC to pursue the establishment of its own on-bill financing program to include the program components and parameters laid out herein, and to file a report of their on-bill financing investigation by June 30, 2013. Upon the establishment of the on-bill financing program for the State, KIUC may choose to opt in. The commission requires KIUC to participate in the on-bill financing working group.

D.

On-Bill Financing Working Group

The best approach to encourage dialogue among stakeholders of on-bill financing program design is to establish a working group comprised of Parties and Participant from the instant docket, financial institutions, representatives of target on-bill financing customer groups, including landlords, tenants, and homeowners, and all other contributing entities identified by the working group. The on-bill financing working group's first task shall be to recommend to the commission other individuals and / or entities who are not Parties or a Participant to this proceeding and who will provide meaningful discussion as a member of the on-bill financing working group. Such recommended additions to the working group shall be provided to the commission by the on-bill financing working group on or before February 28, 2013.

The working group will identify and address potential issues in the creation and administration of an on-bill financing program, and make recommendations for detailed program design, operating procedures, program evaluation, measurement, and the integration into the Energy Efficiency Portfolio Standards ("EEPS") goals.

The commission expects the on-bill financing working group to collaborate on an informal basis, similar to the Technical Working Group for EEPS and the Technical Advisory Group currently in place for PBF Administrator-related functions. Recommendations and findings by this group will be incorporated into legislative reports, as appropriate, and may be implemented at the discretion of the commission. The working group will operate on a consensus basis, with dissenting points of view documented in the facilitator's reports to the commission. The commission intends to form the working group by April 1, 2013.

The commission tasks the working group with the following tasks:

(1) Offer recommendations for working group membership to include other necessary perspectives on or before February 28, 2013.

(2) Provide recommendations that continue to expand upon the tasks laid out for the commission in Act 204 including:

a. Detailing the costs associated with establishment and administration of the program;

b. Ensuring that if any public benefits fee funds are spent, they are used cost-effectively;

c. Establishing methods to allow the electric utility company or any other entities responsible for implementing the billing portion of the on-bill financing program to recover costs incurred due to the program; and

d. Further developing the parameters, components, restrictions and requirements of the program as they are established herein.

(3) Address the concerns brought up in the Consumer Advocate's comments on the draft report including:
   a. Questioning how some level of investment by the landlord might facilitate shortening the payback period[91];
   b. Considering the cost-effectiveness of the program[92]; and
   c. Considering the transferability of the payments between successive tenants/owners and the interplay between bill neutrality and transferability.

(4) Address the discussion points as detailed in this Decision and Order that the commission believes need further attention including:
   a. Suggestion for "right-sizing" of PV systems eligible for on-bill financing;
   b. Recommendations for legislative amendments necessary to utilize the public benefits fee for generating devices;
   c. Guidelines for the level of bill neutrality;
   d. Recommendations on how the commission can deal with utility compensation for potential increase in uncollectable accounts;
   e. Recommendations for design and process to conduct request for proposals for financing administrator;
   f. Recommendations for development and design of the financing aspects of the program; and
   g. Recommendations for initial program size and scalability in the event of program success.

(5) Further detail the defined program components in this order including parameters to

[91]Consumer Advocate's Comments at 12.

[92]Consumer Advocate's Comments at 7; Consumer Advocate's Rebuttal Comments at 7, 8.

effectuate the program components as described herein.

(6) Determine the interactions between program components in order to create a simple program from the viewpoint of potential on-bill customers and a well-run, effective, highly accountable program that benefits all ratepayers through decreased energy usage.

(7) Determine appropriate evaluation criteria and measurement and verification methods for the program.

(8) Assist with implementation, program evaluation, and if necessary, program expansion.

(9) Draft proposed language for a tariff to implement the on-bill financing program as proposed by the working group.

(10) Offer a suggested time line, including milestones, by which these tasks may be completed, recognizing that development of an on-bill financing program is a priority for the commission.

(11) Any other requests of the commission that pertain to the implementation and evaluation of an on-bill financing program for the State.

E.

Simply Solar Tariff Proposal

The commission thanks the HECO Companies for considering the needs of their customers and attempting to increase their customers' accessibility to money-saving solar water heating devices. However, the commission determines that the establishment of the Simply Solar Tariff is too narrow in scope and does not satisfy the commission's need for a statewide program that is beneficial to both the customers and the electrical system. In the commission's view, the Simply Solar Tariff program, which uses on-bill financing as a payback mechanism for the purchase of solar water heating systems, would benefit the participant at the expense of the non-participant. The Consumer Advocate similarly expressed concern "with the estimated overall costs for this program and the bill impact these costs will have on all customers, especially where costs not borne by the participating customers will then be recovered through a surcharge on all ratepayers."[93]

Having heard from the Consultant, Parties and Participant, the commission concludes there are a number of flaws with the Simply Solar Tariff proposal. First, while the commission believes that starting an on-bill financing program with a manageable group of participants and scaling it up appropriately to achieve efficiencies is logical, the Simply Solar Tariff proposed to help too few customers, to the detriment of other non-participants. Second, the kinds of devices available for program inclusion were too limited.[94] Third, the

[93]Consumer Advocate's SSA Comments at 7-8.

[94]Specifically, Act 204 often refers to on on-bill program that allows the financing of renewable energy or energy efficiency. Moreover, HRS § 269-125 specifically refers to an on-bill program "that would allow an electric utility customer to purchase or otherwise acquire a *renewable energy system* or energy

administrative costs were excessive and too burdensome given the projected savings to be achieved. Fourth, there likely are more low cost financing available to other, non-utility financiers that could be utilized for such a program, which can benefit ratepayers and participants. Finally, on-bill financing, if appropriate program components can be developed, has the potential for a uniform, statewide program. For all of these reasons, among others, the commission concludes that the Simply Solar Tariff is not in the public interest, rejects the Simply Solar Tariff in favor of developing a more comprehensive, statewide on-bill financing program, and denies the HECO Companies' request to establish a Simply Solar Pilot Program.

IV.

Orders

THE COMMISSION ORDERS:

1. An on-bill financing program is viable if it contains the program components included in Section III. B. of this Decision and Order. Such program components will be established after recommendations are made by the on-bill financing working group.

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efficient device" (emphasis added). The proposed Simply Solar Tariff only addresses one specific type of equipment: solar water heating systems and thus does not meet the requirements of the on-bill program the commission is tasked with potentially establishing.

2. The commission denies the HECO Companies' request to establish a Simply Solar Pilot Program and rejects their Simply Solar Tariff in favor of developing a statewide, comprehensive on-bill financing program.

3. KIUC shall pursue the establishment of its own on-bill financing program to comport with the program components and parameters established in this Decision and Order, and shall file a report of its on-bill financing investigation by June 30, 2013.

4. Upon the establishment of the on-bill financing program for the State, KIUC may choose to participate in such statewide program.

5. The Parties and Participant shall participate in an on-bill financing working group to develop the details of an on-bill financing program and make recommendations to the commission on the development of a program for the State consistent with this Decision and Order.

6. The on-bill financing working group shall provide the commission with recommended additions to the working group, consistent with this Decision and Order, by February 28, 2013.

7. This docket is closed, unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii FEB - 1 2013.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Hermina Morita
Hermina Morita, Chair

By Michael E. Champley
Michael E. Champley, Commissioner

By Lorraine H. Akiba
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:

Catherine P. Awakuni
Catherine P. Awakuni
Commission Counsel

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CERTIFICATE OF SERVICE

The foregoing Decision and Order was served on the date of filing by hand delivery, U.S. mail, postage prepaid and properly addressed, or electronically transmitted to the following parties:

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