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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND
COMMERCE

THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

Wednesday, January 30, 2008
2:00 p.m.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS TO THE HONORABLE REPRESENTATIVE HERKES,
CHAIR AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 3080 – RELATING TO PROPERTY OF PUBLIC UTILITIES.

DESCRIPTION:

This measure grants the public utilities the authority to transfer, assign, or otherwise dispose of property, without prior approval from the Hawaii Public Utilities Commission (“Commission”), under circumstances calling for timely, decisive action in order to aid a customer whose operations have been disrupted due to unforeseeable events.

POSITION:

The Division of Consumer Advocacy (“Consumer Advocate”) supports this Administration measure, which provides public utilities the discretion to transfer, assign, or dispose of property prior to obtaining Commission approval under limited circumstances.

H.B. No. 3080
House Committee on Consumer Protection and Commerce
Wednesday, January 30, 2008, 2:00 p.m.

COMMENTS:

By law, public utilities are required to obtain approval from the Commission prior to transfer, assignment, encumbrance, or other disposition of property necessary or useful in performance of their duties as a public utility providing services to the public.

In the recent past, there have been a few instances of electric utilities needing to assist customers on an emergency basis by providing equipment or other property to restore the customers' operations. The Consumer Advocate and Commission have, in each of these instances, worked to provide emergency interim review and approval, respectively, as quickly as possible. Regardless of the speed with which the Consumer Advocate and Commission work in these emergency circumstances, the customers in these instances likely would have been assisted sooner, but for the need for prior approval.

The public interest will be served by allowing public utilities the discretion to transfer or dispose of their property without prior Commission approval when exigent circumstances arise that would otherwise cause "serious disruption of essential public services, . . . serious risk to public safety, or to mitigate serious economic losses to [a] customer." The remainder of the customers will be protected from such transfers, as the proposal includes the requirement that public utilities be duly compensated for their property.

Thank you for this opportunity to testify.

Testimony before the
House Committee on

Consumer Protection and Commerce

H.B. 3080 – Relating to Property of Public Utilities

Wednesday, January 30, 2008
2:00 pm, Conference Room 325

By William A. Bonnet
Vice President, Government & Community Affairs
Hawaiian Electric Company, Inc.

Chair Herkes, Vice Chair McKelvey and Members of the Committee:

My name is Bill Bonnet and I am testifying on behalf of Hawaiian Electric Company, Inc. and its subsidiary utilities, Maui Electric Company, Ltd. and Hawaii Electric Light Company.

Hawaiian Electric Company strongly supports H.B. 3080, which provides flexibility to the utility in making available material to assist customers in restoring power. This is not an unconstrained authorization, and judgment will be required. However, the intent of the language is clear, and it will enable us to better serve our customers by supporting essential services other than our own.

Presently the utility notifies the Commission verbally of a condition which we believe warrants our involvement. This is followed by a letter request to the Commission and an interim Commission order allowing us to proceed, subject to review and approval of a formal application subsequent to the action. The proposed streamlining measure reduces regulatory cost for the Public Utilities Commission, the Division of Consumer Advocacy, and the utility.

Let me give you two examples of the situations this legislation would address:

In December 2007, a severe storm resulted in a power outage for half of Schofield Barracks. The Army determined, among other things, that it needed ten 46 kV insulators to restore power, and the insulators were not available on Oahu. The Army contacted Hawaiian Electric and fortunately, the Company had extra insulators in its inventory. We delivered the insulators to the Army, notified the Public Utilities Commission, and power was restored within days based on an expedited interim Commission order.

Following the Manoa flood in October of 2004, Hawaiian Electric provided the University of Hawaii with cable and other materials needed to connect several 750 kW generators to their distribution system. Hawaiian Electric had the required cable and materials in its inventory. It would have taken the University four months to procure this material from a mainland vendor. We sent a letter request to the Commission one day and received an expedited interim order the next day. A final decision and order was issued over a month later, following review of a formal application.

This proposed legislation acknowledges the need for such action by the electric utility and proposes to make it more efficient. Checks and balances remain, in the form of detailed reporting to the Commission within 30 days. As always, the utility must exercise prudence in its actions, and will be judged on that basis in this and all other matters.

We urge your favorable consideration of this bill and appreciate the opportunity to provide testimony.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE
JANUARY 30, 2008**

MEASURE: H.B. No. 3080

TITLE: Relating to Property of Public Utilities.

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill proposes to amend section 269-19, Hawaii Revised Statutes, the law prohibiting a public utility from selling, leasing, assigning, mortgaging, or otherwise disposing of or encumbering its property, without first securing an authorizing order from the Public Utilities Commission ("Commission"). Under this bill, in those unusual and infrequent cases where a utility determines exigent circumstances exist that call for rapid service restoration to a customer whose operations have been disrupted, the utility may effectuate the transfer of property needed for service restoration without prior approval of the Commission, if necessary to: 1) prevent serious disruption of essential public services, 2) to avoid serious risk to public safety, or 3) to mitigate severe economic losses to that utility customer; and provided that such action does not hinder or degrade the utility's operation with respect to its services or other customers, the utility is duly compensated, and the utility reports in detail to the Commission within thirty days of any such action.

POSITION:

The Commission strongly supports this Administration bill and offers the following comments.

COMMENTS:

- **Exigent circumstances can create an environment in which prudent, prompt, time-sensitive action by a public utility might include a property transfer in coming to aid a public utility customer.**

- The Commission is responsible for ensuring that each public utility maintains the property used in provision of its services to customers, and one of the methods the Commission employs in addressing that responsibility is to require public utilities to obtain **prior approval** from the Commission if it intends to sell, lease, assign, mortgage, or otherwise dispose of the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public.
- Experience has shown, however, that there are on occasion exigent circumstances that require an immediate transfer or encumbrance of utility property to rapidly restore a customer to full or near full operational status.
- This measure proposes to give public utilities, under exigent circumstances, the limited authority to transfer, assign, or otherwise dispose of property, **without prior approval** from the Commission, and will help avoid or mitigate risks to public safety, or serious disruption of essential services, or serious economic losses. At the same time, the public interest is protected by the bill providing that in so doing, the public utility shall not unduly hinder or degrade its operation with respect to its services or other customers, shall be duly compensated for its affected property, and shall report in detail to the Commission within thirty days of any such action.

Thank you for the opportunity to testify.



**TESTIMONY BEFORE THE HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE**

**HOUSE BILL 3080
BY
STEVEN GOLDEN**

WEDNESDAY, JANUARY 30, 2008

Chair Herkes and members of the Committee:

I am Steve Golden, Vice President of External Affairs for The Gas Company. Thank you for the opportunity to provide testimony on House Bill 3080, relating to property of Public Utilities.

This bill would, among other things, allow public utilities additional flexibility to respond to the needs of their customers in times they deem to present unusual, exigent circumstances, by transferring, assigning, or otherwise disposing of public utility property, without requiring advance approval of the Public Utilities Commission.

The bill provides for a more rapid response to customer emergencies by the utilities than under existing law, but also provides that the utilities must notify the Public Utilities Commission of the transfer in a detailed report to be filed within 30 days. Similarly, the bill protects the utilities' other customers by providing that their service may not be degraded, and the utility will receive due compensation. In this way the bill appears to balance the interests of all interested parties. Accordingly, TGC supports the bill as drafted.

Thank you for allowing The Gas Company to present these comments.