



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

MONDAY, FEBRUARY 23, 2009
2:15 P.M.

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

HOUSE BILL NO. 1270 HD1 – RELATING TO RENEWABLE ENERGY.

DESCRIPTION:

This measure removes the requirement that the Hawaii Public Utilities Commission (“Commission”) establish the rate for purchase of electricity by a public utility at an amount not more than one hundred percent of the cost avoided by the utility.

POSITION:

The Division of Consumer Advocacy (“Consumer Advocate”) supports the measure.

COMMENTS:

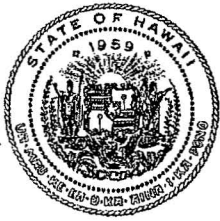
Removal of the avoided cost limitation on purchased power pricing will provide the Commission with greater flexibility when it establishes such pricing terms, and will enable the Commission to be better able to consider the long-term benefits of a purchased power contract (especially when the record demonstrates that over the short-term the prices exceed the utility’s current avoided costs).

It is important that consumers are provided with accurate information about the rate impacts that may be experienced over the short-term. That is, a change in the

H.B. No. 1270 HD1
House Committee on Consumer Protection and Commerce
Monday, February 23, 2009, 2:15 P.M.
Page 2

infrastructure used to produce electricity will need to occur, which may be costly over the short-term. Such a shift is necessary as it will provide our community with a greater number of options and increased energy security over the long-term.

Thank you for this opportunity to testify.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
THEODORE E. LIU
Director

Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Monday, February 23, 2009

2:15 P.M.

State Capitol, Conference Room 325

in consideration of
HB 1270, HD1
RELATING TO RENEWABLE ENERGY

Good morning, Chair Herkes, Vice Chair Wakai, and Members of the Committee.

HB 1270, HD1 removes the link between the purchase power rates payable by the utility for nonfossil fuel generated electricity, and the prices of fossil fuels. It amends Section 269-27.2 (c), Hawaii Revised Statutes (HRS), by deleting the provision that limits the purchase power rates to no more than 100 per cent of “the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy.” It also amends the definition of “Cost-effective” in Section 269-91, HRS, to remain consistent with the methodology set by the Public Utilities Commission (PUC). DBEDT supports HB 1270, HD1.

Removing the limit on the purchase power rates based on the utility's avoided cost provides the PUC with greater flexibility in determining just and reasonable purchased power rates, and will be more likely to promote the development of renewable energy resources.

Thank you for the opportunity to offer these comments.

**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
FEBRUARY 23, 2009**

MEASURE: H.B. No. 1270 H.D. 1
TITLE: Relating to Renewable Energy

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill amends Section 269-27.2, Hawaii Revised Statutes ("HRS"), by removing the avoided cost limit on the rate for purchase of electricity by a public utility when the utility purchases electrical energy. In addition the bill amends the definition of "cost effective" in Section 269-91, HRS.

POSITION:

The Commission has no objections to the proposed amendments.

COMMENTS:

The Commission defers to the Legislature's judgment as to whether the avoided cost limit on the rate that an electric utility must pay for nonfossil fuel generated electricity should be eliminated.

The Commission appreciates the Legislature's proposed amendment to the definition of "cost effective" as contained in HRS Section 269-91, to remain consistent with the methodology set by the Commission:

Thank you for the opportunity to testify.

TESTIMONY BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Monday, February 23, 2009
2:15 p.m.
Conference Room 325, State Capitol

H.B. NO. 1270, H.D. 1
RELATING TO RENEWABLE ENERGY

By: Lisa Kikuta
Director, Government & Public Affairs
Hawaiian Electric Company, Inc.

Chair Herkes, Vice-Chair Wakai, and Members of the Committee:

My name is Lisa Kikuta, testifying on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the HECO Companies).

The HECO Companies support this bill, which proposes to delete the provision in HRS § 269-27.2(c) that may cap the price that a utility pays to an independent power producer (IPP) for non-fossil fuel generated electricity at one hundred per cent of the cost that the utility avoids by purchasing the energy rather than producing it. It also proposes to amend the definition of "cost-effective" under HRS § 269-91.

While the current language limits the amount electric customers pay for renewable energy, it may also reduce the amount of renewable energy the utility may purchase from IPPs. For example, in some cases, it may be difficult for an IPP to accept a price to the utility that is no more than the utility's avoided cost, due to complexities and challenges associated with the IPP's particular production site and facilities and use of newer technology. This bill may help to address this concern.

In addition, this bill would clarify the Public Utilities Commission's flexibility to decide whether power purchase agreements between the utility and IPPs are in the public interest. For example, the Commission may be able to approve a power purchase agreement connected to a particular renewable energy project if the overall merits of the project justify a price that is higher than the utility's avoided cost.

For these reasons, we support H.B. No. 1270, H.D. 1 and request its passage. Thank you for the opportunity to testify.



2343 Rose Street, Honolulu, HI 96819
PH: (808) 848-2074; Fax: (808) 848-1921
e-mail hfbf@hfbf.org

TESTIMONY

House Committee on Consumer Protection and Commerce

RE: HB 1270 HD1 Relating to Renewable Energy

Chair Herkes and Members of the Committees:

My name is Warren Watanabe and I am a Field Representative of HFBF and the Executive Director of Maui County Farm Bureau. Hawaii Farm Bureau Federation is Hawaii's general agriculture advocacy organization. We represent farmers and ranchers across the State. HFBF is in **strong support** of HB 1270 HD1 which deletes the avoided cost provision in determining a just and reasonable rate for nonfossil fuel generated electricity.

While the demand to convert from fossil feedstocks for electricity is strong, there is not an equivalent understanding that renewable energy is not cheap. While some will argue that there are many unaccounted costs associated with fossil fuel, the existing price structure is based on many coproducts that are produced from the original fossil fuel sources. In most instances, such is not the case with renewable energy. Also, as an emerging science, the technological advancements to maximize productivity as well as the economies of scale have not fully been developed. As such, the promotion of a strong local renewable energy industry will depend on an understanding that the cost to produce the energy could be more than the avoided costs. A fair payment for electricity produced from the renewable energy resources is critical for the timely expansion of the industry.

We respectfully **request your strong support of this measure.** Thank you for this opportunity to provide comments on this matter.



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 23, 2008, 2:15 P.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 1270 HD1

Chair Herkes and members of the committee:

The Blue Planet Foundation supports House Bill 1270 HD1, eliminating an existing constraint to increasing electricity generated from non-fossil sources. By removing the existing "avoided cost cap" in statute, HB 1270 HD1 will significantly reduce any linkages between the volatile prices of fossil fuels and the rate for nonfossil fuel generated electricity, potentially enabling utility customers to share in the benefits of price stability and fuel cost savings resulting from the use of non-fossil fuel generated electricity.

Increasing the use of indigenous, renewable resources for electricity generation is crucial to Hawaii's clean, independent, and sustainable energy future. Increased use of nonfossil fuels will strengthen Hawaii's economy and protect our environment. The resilience of the state's economy is compromised by the dependence on the volatile prices of fossil fuels. The state is currently dependent on foreign fossil fuels whose supply is not always secure and predictable.

Existing state law prevents the public utilities commission (PUC) from allowing contracts for clean energy purchased by a public utility at a price that exceeds that utility's "avoided cost" for producing electricity with fossil fuels. Blue Planet believes this existing policy is flawed because:

1. It creates an obstacle to other initiatives to increase clean energy use in Hawaii. A recent study on Feed-in Tariffs conducted by the National Regulatory Research Institute¹ for the PUC suggests that the current law may put a cap on the feed-in tariff price. The existing statute may prohibit a feed-in tariff greater than the current cost of oil-powered electricity.
2. It doesn't necessarily recognize the external values in clean energy production, including less impact to the environment, job creation, less drain on Hawaii's economy to pay for imported fossil fuel, the hedge value in a long term clean energy contract versus volatile fossil fuel prices, and other values.

¹ National Regulatory Research Institute. Feed-in Tariffs: Best Design Focusing Hawaii's Investigation. December 2008.

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org

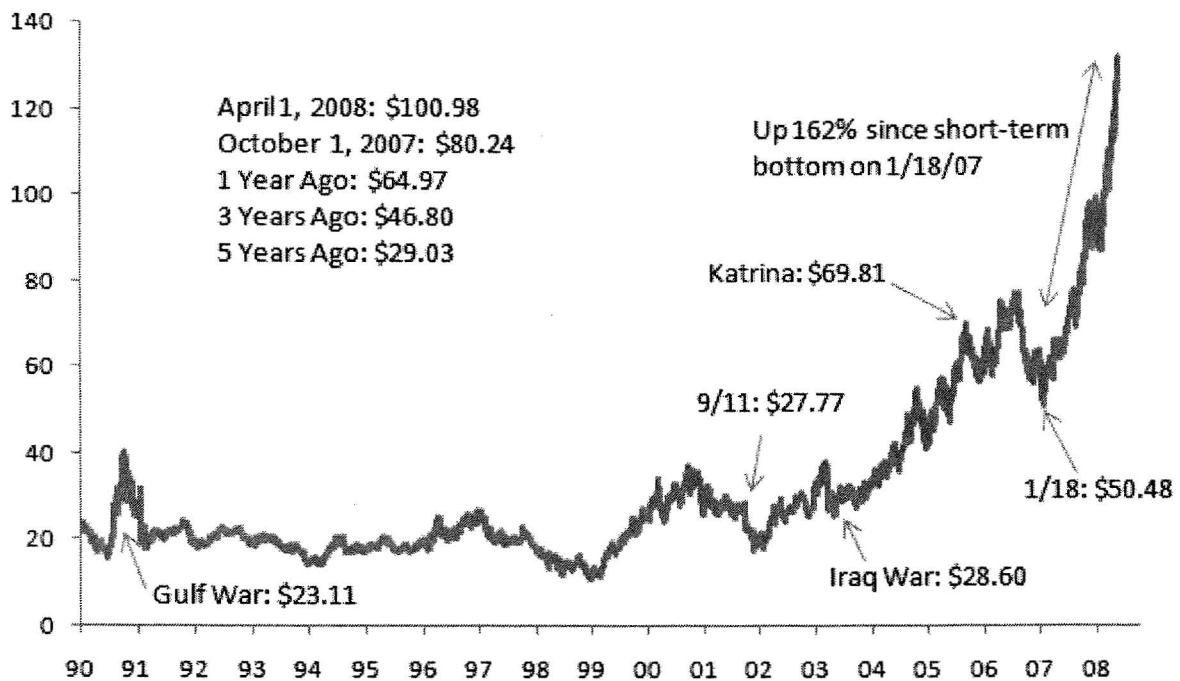
55 Merchant Street 17th Floor • Honolulu, Hawaii 96813 • 808-954-6142 • blueplanetfoundation.org

3. It is difficult to quantify due to the volatility in the price of fossil fuels, making contracting with clean energy producers more difficult. As the oil price chart at the bottom of this page makes clear, a decision about "avoided cost" made in 2002 given the fossil fuel price at the time would be off by 400% six years later.

House Bill 1270 HD1 corrects this existing policy by eliminating the requirement that the PUC not exceed the avoided cost of electricity in determining the price for clean energy providers. Passage of HB 1270 HD1 helps to align state energy policy with Hawaii's preferred clean energy future by eliminating this constraint to increasing electricity generated from nonfossil fuels.

Thank you for the opportunity to testify.

Oil Prices, 1990 - 2008





Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 23, 2009, 2:15 P.M.

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1270, HD1

Aloha Chair Herkes and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 1270, HD1, making it easier to determine an appropriate rate for nonfossil fuel generated electricity.

Hawai'i is the most dependent state in the nation on imported oil. Some 50 million barrels are imported annually, nearly 80% of which originate from foreign sources. In addition, over 805,000 tons of coal are imported into our state. These sources provide power for over 92% of Hawaii's electricity generation. The combustion of these resources also contributes over 23 million tons of climate changing greenhouse gas into our atmosphere annually.

Hawaii's economic, environmental, and energy security demand that we reduce the amount of fossil fuel imported and consumed in Hawaii. This bill is a solid step in that direction. It encourages the development of renewable energy based setting reasonable rates based on consideration of all factors, and not merely the cost of fossil fuels. Without this measure, Hawai'i will not move forward in developing renewable energy until it's too late and our financial capacity is strained by the anticipated high cost of oil.

Thank you for this opportunity to provide testimony.



COLLEGE OF SOCIAL SCIENCES

HAWAII ENERGY POLICY FORUM

UNIVERSITY OF HAWAI'I AT MĀNOA

Hawai'i Energy Policy Forum

Mr. Robbie Alm, HECO
Ms. Amy Asselbaye, Ofc of US Rep.
Neil Abercrombie
Ms. Madeleine Austin, World Business
Academy
Ms. Catherine Awakuni, Div. of
Consumer Advocacy
Mr. Warren Bollmeier
Hi Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Mr. Kyle Datta, U.S. Biofuels
Mr. Mark Duda Hi Solar Energy Assoc.
Sen. Kalani English, HI State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman
Haiku Design and Analysis
Mr. Mark Glick, OHA
Mr. Steve Golden, The Gas Company
Dr. Michael Hamnett, RCUH
Ms. Paula Helfrich, EDAH
Mr. William Kaneko, HI Institute for
Public Affairs
Mr. Darren Kimura, Energy Industries
Holdings
Mr. Mike Kitamura, Ofc of US Sen.
Daniel K. Akaka
Mr. Kal Kobayashi, Maui County
Mr. Laurence Lau, DOH
Ms. Yvonne Lau, Ofc of US Rep.
Mazie Hirono
Mr. Allyn Lee, C&C of HNL
Mr. Aaron Leong, Ofc of US Senator
Daniel K. Inouye
Dr. Stephen Meder, AIA-Honolulu
Sen. Ron Menor, HI State Senate
Mr. Robert Harris, Sierra Club
Dr. Bruce Miller, UH Ofc of
Sustainability
Dr. Sharon Miyashiro, Social
Sciences Public Policy Ctr.
Rep. Hermina Morita, HI State
House of Representatives
Mr. Tim O'Connell, USDA/Rural
Development
Mr. Richard Paglinawan
Pa Ku'i A Lua
Ms. Melissa Pavlicek, Western States
Petroleum Assn
Mr. Randy Perreira, HI State AFL-CIO
Dr. Rick Rochelcau, UH HNEI
Mr. Peter Rosegg, HECO
Mr. Steven Rymsha, KIUC
Mr. Riley Saito, PowerLight Corp.
Mr. Glenn Sato, Kauai County OED
Ms. Caryl Shon, DBEDT
Mr. Bill Short, BIA of Hawaii
Mr. Ray Starling, HI Energy Grp
Mr. Lance Tanaka, Tesoro HI Corp
Dr. Don Thomas, UH Center for the
Study of Active Volcanoes
Mr. Murray Towill, Hawai'i
Hotel Assn
Ms. Joan White, Hon Community
Action Program

Testimony of

Carl Freedman

Chair, Regulatory Reform Working Group
Hawai'i Energy Policy Forum

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair

Rep. Glenn Wakai, Vice Chair

Monday, February 23, 2009 2:15 PM.
Conference Room 325

IN SUPPORT OF HB 1270 HD1 – RELATING TO RENEWABLE ENERGY

I am Carl Freedman, Chair of the Regulatory Reform Working Group of the Hawaii Energy Policy Forum ("Forum"). The Forum is comprised of over forty representatives from the electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive "10 Point Action Plan," which serves as a framework and guide for meeting our preferred energy vision and goals.

HB 1270 would delete the Hawaii State statutory avoided cost ceiling on wholesale energy contracts in section HRS 269-27-2(c) which is currently more restrictive than federal avoided cost limitations. This change would allow the Hawaii PUC to allow renewable energy producers to receive higher than "least avoided costs" when a price is agreed between the utility and the producer and the PUC finds the price to be "just and reasonable". Federal law limiting mandatory enforcement by the PUC of prices above avoided cost would still apply. The need for this change was identified by several parties in the Feed-in Tariff docket now in process before the PUC.

HB 1270 also amends the definition of "cost effective" in the Renewable Portfolio Standards section HRS 269-91 so that it properly conforms to the amended section HRS 269-27-2(c).

These amendments would allow the PUC to most effectively establish rates that support implementation of appropriate renewable energy resources while maintaining a standard that rates must be just and reasonable.

For the reasons above the Forum supports HB 1270.

Thank you for this opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organization

**DOWLING
COMPANY, INC**

Room # 325 2:15 PM February 23, 2009

**HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
HB1270, HD1 RELATING TO ENERGY EFFICIENCY**

Chair Herkes, Vice-Chair Wakai and Committee Members:

My name is Jennifer Stites and I am the Green Development Manager for Dowling Company, Inc. ("DCI"). DCI is a Maui-based real estate development company that is committed to sustainable development. To guide this effort and determine our performance metrics, we have adopted the nationally recognized U.S. Green Building Council's ("USGBC") Leadership in Energy and Environmental Design ("LEED") rating system. We are especially proud and excited that DCI's first USGBC LEED certified project is our own office located in Wailuku, Maui. Our office was also the first USGBC LEED certified office on Maui.

DCI supports HB1270, HD1 because in late 2008 the Hawaii Public Utilities Commission initiated a Docket into the investigation of Feed-in Tariffs in Hawaii. Although the PUC investigation is still ongoing, research has shown that one of the key elements in a successful feed-in tariff program is to have flexibility in regards to pricing to encourage renewables to enter the market. The amendments proposed in this bill will allow the PUC the flexibility in determining a just and reasonable rate for nonfossil fuel generated electricity which in turn will hopefully lead to more nonfossil fuel generated electricity in the Hawaii market.

Thank you for the opportunity to submit testimony.

SUNPOWER

Room # 325 2:15 PM February 23, 2009

House Committee on Consumer Protection and Commerce

HB1270, HD1

RELATING TO ENERGY EFFICIENCY

Chair Herkes, Vice-Chair Wakai and Committee Members:

Introduction: My name is Riley Saito Senior Manager, Hawaii Projects for the SunPower Systems Corporation. Thank you in advance for accepting these few comments on **HB1270, HD1**.

SunPower Systems Corporation ("SunPower") has been a member of the Hawaii Energy Policy Forum since it convened in 2003 and a member of the HCEI Energy Generation group over the past year. SunPower is in the business of designing, manufacturing, and delivering the highest efficiency solar electric technology worldwide. One of our latest projects was the 1.2 megawatt La Ola solar farm on Lanai with Castle & Cooke Hawaii.

SunPower supports HB1270, HD1 because in late 2008 the Hawaii Public Utilities Commission initiated a Docket into the investigation of Feed-in Tariffs in Hawaii. Although the PUC investigation is still ongoing, research has shown that one of the key elements in a successful feed-in tariff program is to have flexibility in regards to pricing that would encourage renewable energy investors to enter the market. The current language limits the rates to 100% of avoided cost. This limitation will not allow the PUC to have the flexibility to set the proper rate structure to reduce Hawaii dependency on fossil fuels.

The amendments proposed in this bill will allow the PUC the flexibility in determining a just and reasonable rate for non-fossil fuel generated electricity, not coupled with avoided cost based on a centralized fossil fuel generation, and (hopefully) lead to more non-fossil fuel distributed generated electricity in the Hawaii market.

Mahalo for the opportunity to submit testimony.

Chair Herkes, Vice-Chair Wakai and Committee Members:

Introduction: My name is Tony Pace and I would like to offer a few comments on HB1270, HD1 on behalf of Tawhiri Power LLC ("TPL"). TPL is an Independent Power Producer ("IPP") who as a Qualifying Facility sells electrical energy generated from wind to Hawaii Electric Light Company, Inc. ("HELCO") pursuant to a power purchase agreement ("PPA"). Under the PPA, the price to be paid to TPL is based on HELCO's avoided cost; and HELCO's avoided cost is the cost to which ratepayers would be **indifferent**. TPL does **not** receive subsidization from HELCO's ratepayers.

TPL assumes that this bill was introduced in response to the Hawaii Public Utilities Commission's initiation of Docket No. 2008-0273: Instituting a Proceeding to Investigate the Implementation of Feed-in Tariffs ("FIT") and to provide the PUC with the flexibility to set FIT rates above avoided cost. Although, TPL takes no position on HB1270, HD1 it would like to comment that the concept of avoided cost is not passé. The bill's strong emphasis on decoupling future prices for renewable energy from fossil fuel prices is tantamount to dismissing the avoided costs approach as an outdated and not needed. Such mindset can be very misleading and harmful. Knowing a utility's avoided costs is absolutely necessary for benchmarking investments in alternatives means to meeting customers energy needs regardless of the methods used to pay for such alternatives, including the proposed FIT. Defining a floor for cost effectiveness testing without an accurate, transparent and mutually agreeable methodology for determining avoided costs is not possible.

If the legislature is making a blanket assertion that the avoided cost approach is no longer appropriate, will the PUC order that all existing contracts – which currently supply the bulk of the State's renewable energy production – be renegotiated to switch them to new PPAs based on rates decoupled from fossil fuel prices? Is this an intended consequence of the proposed legislation? If not, then the legislature should make it clear it does not intend to force the renegotiations of existing contracts.

Clearly, Hawaii's renewable energy goals require development along two tracks: the proposed FIT mechanism and a just and reasonable avoided cost methodology. The first covers those projects that may require support beyond payments at avoided costs. The second includes existing plants financed and supported by contracts structured on the basis of compensations at avoided costs as well as future renewable projects interconnected at voltages higher than FIT facilities.

Finally, because of the important role that avoided costs can play for both existing and future resources at all voltage levels and project sizes, the need for a fully transparent methodology for determining avoided costs is more pressing than ever. We strongly recommend that the legislature direct the PUC to initiate a formal proceeding for identifying and establishing such methodology with **full observance of the requirements of due process** at the earliest possible time. The current avoided cost methodology, which was conceived and detailed without contributions from IPP developers, is severely lacking with respect to transparency and technical details. The proposed FIT rate determinations would also benefit from analyses that fairly and reasonably represent the utility's avoided costs.

Thank you for the opportunity to submit comments.