

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON FINANCE
APRIL 2, 2009**

MEASURE: S.B. No. 878 S.D.1

TITLE: Relating to Publication of Hearing Notices.

Chair Oshiro and Members of the Committee:

DESCRIPTION:

This bill proposes to amend the law to require that the Public Utilities Commission ("Commission") publish notice of a public hearing on a rate change by a public utility in the county or counties in which the utility provides utility services, rather than statewide.

POSITION:

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

COMMENTS:

- **Currently, section 269-12, Hawaii Revised Statutes ("HRS"), requires the Commission to provide three statewide notices of a public hearing regarding any proposed change or modification in a rate, fare, charge, classification, schedule, rule, or practice other than one established pursuant to an automatic rate adjustment previously approved by the Commission.**
 - This public notice must be published statewide even if the public utility to which the notice pertains, and the customers who are or may be affected, reside in one county, and not statewide.
 - Amending the law to provide that notice be published only in the county served by the utility seeking the proposed change, and where the utility's customers reside, will reduce government waste by lowering the Commission's publication costs by as much as fifty percent per fiscal year.

- For example, for fiscal year 2006-2007, had the proposed change been in effect, the Commission would have reduced its advertising expense by approximately \$74,000, a savings of forty-five percent of the actual advertising expense of nearly \$135,000.
- Affected customers already receive direct and adequate notice of public hearings on rate changes. In addition to the requirements set forth in the bill, public utilities are required to directly notify their customers regarding upcoming public hearings on proposed changes in public utility rates, pursuant to section 269-12(c), HRS, which provides:

"The applicant or applicants shall notify their consumers or patrons of the proposed change in rates and of the time and place of the public hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing."

The Commission also regularly publishes notice of public hearings on its website to keep utility customers and the general public informed.

Thank you for the opportunity to testify.



U.S. Department
of Transportation

Western Region
Office of Pipeline Safety

12300 W. Dakota Ave., #110
Lakewood, CO 80228

**Pipeline and
Hazardous Materials
Safety Administration**

DB
copy

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 4, 2005

Mr. Richard VanDrunen
Engineer
State of Hawaii Public Utilities Commission
465 S. King Street, #103
Honolulu, HI 96813

PUBLIC UTILITIES
COMMISSION
2005 MAR -7 P 2:11
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Re: Status of the Natural Gas Pipeline Safety Program in Hawaii

Dear Mr. VanDrunen:

We appreciate your attempt to update your files with respect to the status of the Natural Gas Pipeline Safety Program in Hawaii. The Office of Pipeline Safety (OPS), within the U.S. Department of Transportation, is currently providing pipeline safety oversight for Hawaii as follows:

- The U.S. Department of Transportation's Office of Pipeline Safety exercises the authority to issue and enforce safety regulations for the transportation of natural gas by pipeline under the Natural Gas Pipeline Safety Program of 1968, as amended (NGPSA). These regulations cover the design, construction, inspection, testing, operation, and maintenance of pipeline facilities. The OPS enforces compliance with the regulations through a comprehensive inspection program and, when appropriate, the imposition of administrative, civil, or criminal remedies.
- We inspect all pipeline facilities in Hawaii, both hazardous liquid and natural gas, at a minimum inspection frequency of at least once per year. Our OPS inspectors examine the sole natural gas operator in Hawaii, The Gas Company, more frequently. Each year, our inspectors audit the following Gas Company facilities:
 1. Oahu Transmission Line
 2. Oahu Propane Distribution Systems
 3. Citizens Outer Islands
 4. Oahu Distribution System
- Most recently, two Warning Letters were issued by OPS as a result of the inspections conducted during the month of December 2004. These are notices of probable violations and require the operator to correct the deficiencies.

- The State of Hawaii participated in the Federally-authorized pipeline safety program until March of 1993, when OPS terminated Hawaii's 5(a) Certification due to a lack of inspection staff (see attached letter). The lack of inspection staff was attributed to the resignation of Mr. Vern Abe, pipeline inspector, and the failure to fill his vacant position. The State, having been in the pipeline safety program previously, still maintains in its state laws the necessary requirements for Certification. This is your written confirmation that without Certification by the U.S. DOT the State of Hawaii is preempted under federal law from asserting authority over gas pipeline safety in the State. Therefore, Hawaii is precluded from operating a gas pipeline safety program until such time as Hawaii applies for and receives State Certification. If Hawaii receives Certification, then Hawaii's enforcement actions would need to parallel or be equal to the duties of the OPS.

We appreciate your interest in this matter. If you have any questions, please do not hesitate to contact me or Tom Finch at (720)963-3160, or via email at chris.hoidal@dot.gov or thomas.finch@dot.gov.

Sincerely,



Chris Hoidal, P.E.
Director, Western Region

Attachment: US DOT Letter to Mr. Yukio Naito dated March 8, 1993

cc: Tom Fortner
DPS-28 (T. Finch)

PUBLIC UTILITIES
REGULATION

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FILED



U.S. Department of Transportation

Research and Special Programs Administration

The Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Yukio Naito
Chairman
Hawaii Public Utilities Commission
465 South King Street
Honolulu, HI 96813

Dear Mr. Naito:

The purpose of this letter is to advise you that we have terminated the State of Hawaii's certification under Section 5(a) of the Natural Gas Pipeline Safety Act of 1968, as amended (NGPSA). Regrettably, the Hawaii Public Utilities Commission (PUC) has been unable to deliver an adequate pipeline safety program in compliance with Section 5(a) requirements. Our letters of June 16, 1992, October 7, 1992, and December 10, 1992, explained PUC program inadequacies in detail. The PUC has not offered us any assurances that it will be able to implement a satisfactory program in the next several years and has not responded to our offer of an opportunity for an informal hearing in regard to its certification status.

Effective immediately, the Office of Pipeline Safety Western Regional Office is asserting Federal jurisdiction over gas pipeline operators in the State of Hawaii. As such, the PUC will no longer be eligible to receive grant funds under Section 5(d) of the NGPSA to cover state costs of personnel, equipment, and activities to carry out a safety program.

The Regional Office will inform the PUC in advance of any scheduled operator inspections and encourages PUC staff to observe these inspections in furtherance of our mutual aim to assure the safety of the citizens of Hawaii. Should circumstances change and the PUC be in a position to conduct a satisfactory pipeline safety program pursuant to Section 5(a), we stand ready to reconsider state certification.

Sincerely,

Rose A. McMurray
Acting Administrator

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