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IN REPLY REFER TO:

February 1, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2603

COMMITTEE ON TRANSPORTATION

The Department of Transportation supports this bill.

The cost sharing for undergrounding and the interpretation of sections 264-33 and 264-33.5, HRS have remained unclear which has resulted in inconsistent applications of the law. Applications of the utility's share on past projects have ranged from 10% to 50% of the cost.

This bill also requires private utility companies to provide their share of costs up front for encumbrance of funds in government contracts, otherwise it places an unfair financial burden on the transportation agency.

**TESTIMONY OF CARLITO P. CALIBOSO  
CHAIRMAN, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON TRANSPORTATION  
FEBRUARY 1, 2010**

**MEASURE:** H.B. No. 2603

**TITLE:** Relating to Cost Sharing in the Relocation and Undergrounding of Utility Facilities

Chair Souki and Members of the Committee:

**DESCRIPTION:**

This bill amends Sections 264-33 and 264-33.5, Hawaii Revised Statutes, to require any utility owners whose facility occupies State Highway right-of-way to provide their share of relocation costs up front to the affected state agency for encumbrance of funds in related contracts.

**POSITION:**

The Commission is concerned with the proposal in this bill to require public utilities to share in approximately one-half of the costs of relocation or undergrounding utility lines and facilities. Public utilities will then pass such costs on to their electricity customers, further increasing their electricity rates, but defers to the Legislature on whether such costs should ultimately borne by electricity ratepayers.

**COMMENTS:**

- The Commission is concerned that when public utilities are required to share in one-half of the expenses in excess of \$10,000 of the cost of utility relocations or undergrounding utility lines necessitated by highway improvements, public utilities will pass those costs on to electricity customers, which will result in increasing the electricity rates all ratepayers.
- This Committee should be aware that this proposal will generally increase electricity rates for electricity customers in Hawaii.

Thank you for the opportunity to testify.

# THE GAS COMPANY

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February 1, 2010

Testimony on HB 2603 Relating to Cost Sharing in the Relocation and Undergrounding of Utility Facilities Before the House Committee on Transportation, Monday, February 1, 2010

Aloha Chair Souki, Vice Chair Awana and Members of the Transportation Committee:

My name is Stephanie Ackerman, Vice President Public Policy and Communications of The Gas Company. Thank you for the opportunity to provide testimony on HB 2603.

The Gas Company (TGC) is a public utility that was founded in 1904 and is Hawaii's only government franchised full-service gas energy company making gas products and services available in Hawaii.

We oppose certain amendments to the statutory language contained in the bill and request necessary clarifications of other parts.

First, we have a concern with the term "utility owner" as used on page 1, lines 15-16, page 3, lines 17, 19, and 20, and page 5 lines 12, 14, and 17, as well as in the title of the bill. "Utility owner" implies the shareholders of the utility company rather than its ratepayers. Yet page 3 of the justification sheet indicates that the proposed legislation is indifferent to how the utility handles its share of the cost, and in fact contemplates that the utility's portion of the relocation or undergrounding costs will eventually be passed through to the utility's rate payers rather than borne by its shareholders. The word "owners" should be deleted for clarity.

Second, TGC opposes the proposal to add a new subsection (d) to HRS Sec. 264-33, requiring a utility to pay its full share of betterment or relocation costs within 30 days from when the state or county highway agency determines the cost sharing amounts. (See page 3, lines 16-22.) Although TGC's cost shares tend to be lower than those for the electric utilities, the requirement for up front-payment is detrimental to cash flow considerations. TGC cannot immediately spread such costs among its ratepayers and must await a subsequent PUC rate case for any such recovery.

Third, we have a concern about an inherent ambiguity in Section 264-33.5, concerning underground installation of utility facilities along federal-aid highways. Specifically, we would like clarified the language in the existing statute concerning cost differentials between "underground and overhead facilities" (p. 4, line 12). We believe the language should read "above-ground" instead of "overhead." The revised language would better address how cost sharing is done when utility facilities located on a state highway bridge, for example, are relocated either to another bridge or underground, even if these facilities were not technically "overhead" to begin with. In this regard, the word "overhead" on page 5, lines 8 and 11, should likewise be changed to "above-ground."

Fourth, TGC would like to see a clarification of the language concerning determination of the cost sharing allocation as among the utilities and the state or county highway agency clarified, once the "federal highway funds that are available to pay for the federal share of the cost differential between underground and above-ground facilities" has been determined. By way of background, TGC and others share a long-term lease of the so-called energy corridor managed by State Harbors, through which our

transmission pipeline passes. Although most of our public utility facilities in the energy corridor are underground, in the Waipahu vicinity, our transmission line and public utility facilities of others, pass over a low "at-road-grade" state-owned bridge. The bridge was seriously damaged by flooding and debris build-up in December 2008 and is now in need of replacement. The flooding event was declared a federal disaster and FEMA has earmarked federal funds for Hawaii that are available for projects to remedy that disaster area and prevent future disasters, including hardening of utilities and infrastructure to prevent interruptions to utility service. TGC is seeking to apply for FEMA funds to be used either in building a new, more flood resistant, bridge and relocating its utility facilities there or in aid of undergrounding its utility facilities to avoid use of any bridge. However, TGC is encountering difficulty in finding the necessary state sponsor for this application. TGC would like to see Sections 2 (a) and (c) of the bill clarified to state that, to the extent that a utility independently brings *other* federal funds to the table that are not "federal highway funds," these funds will go solely to reduce the utility's share of relocation or undergrounding costs during the cost-sharing calculations. In that way, only if State Highways agrees to act as the sponsor for an application for the FEMA funds, will a portion of any such funds so awarded be attributable to the cost share of State Highways. To that end, we would like to see the following language added to the end of line 12 on page 5:

"provided that any federal non-highway funds attributable to the relocation, replacement, reconstruction, or undergrounding of any utility facility shall be attributable solely to the utility's cost share unless the state or county highway agency has sponsored the application for such federal non-highway funds. If the state or county highway agency has sponsored the application for such federal non-highway funds, then any such federal non-highway funds shall be apportioned ratably among the cost shares of the state or county highway agency and the affected utility(ies)."

Mahalo for the opportunity to testify on HB 2603.