

**SB 461**

**TESTIMONY OF CARLITO P. CALIBOSO  
CHAIRMAN, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT  
FEBRUARY 10, 2009**

**MEASURE: S.B. No. 461**  
**TITLE: Relating to Renewable Energy**

Chair Gabbard and Members of the Committee:

**DESCRIPTION:**

This bill amends Section 269-27.2, Hawaii Revised Statutes, by removing the avoided cost limit on the rate for purchase of electricity by a public utility when the utility purchases electrical energy.

**POSITION:**

The Commission has no objections to the proposed amendment.

**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.
- Should the Legislature decide to eliminate the avoided cost limit, the Commission recommends the definition of "cost effective" as contained in HRS Section 269-91 be amended as follows to remain consistent with the methodology set by the Commission:

"Cost-effective" means the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or below avoided costs or as the commission otherwise determines to be just and reasonable consistent with the methodology set by the public utilities commission in accordance with section 269-27.2."

Thank you for the opportunity to testify.



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

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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LAWRENCE M. REIFURTH  
DIRECTOR  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

TUESDAY, FEBRUARY 10, 2009  
3:45 P.M.

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

**SENATE BILL NO. 0461 – 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:**

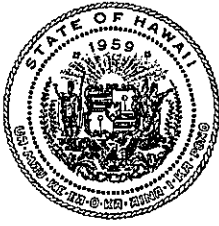
Removal of the avoided cost limitation on purchased power pricing will provide the Commission with greater flexibility when it establishes such pricing terms, and will enable the Commission to be better able to consider the long-term benefits of a purchased power contract (especially when the record 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

S.B. No. 0461  
Senate Committee on Energy and Environment  
Tuesday, February 10, 2009, 3:45 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  
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DIRECTOR  
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Statement of  
**THEODORE E. LIU**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ENERGY AND THE ENVIRONMENT**  
Tuesday, February 10, 2009  
3:45 PM  
State Capitol, Conference Room 225

in consideration of  
**SB 461**  
**RELATING TO RENEWABLE ENRGY**

Good afternoon, Chair Gabbard, Vice Chair English, and Members of the Committee.

SB 461 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, 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.” While DBEDT supports SB 461, we would like to offer the following comments.

Over 90 percent of Hawaii’s electrical energy is generated from imported fossil fuels, which effectively bases the utility’s avoided cost on the prices of fossil fuels. DBEDT recognizes the uncertainty and difficulty of projecting the long-term fossil fuels prices, and SB 461’s proposed amendment reduces the uncertainty in the revenue stream of renewable energy

developers. Removing the limit on the purchase power rates based on the utility's avoided cost also provides the Public Utilities Commission (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. However, doing so could also result in higher rates to the rate payers.

Keeping the purchase power rates to the current statutory limit of no higher than the utility's avoided cost provides some safety net for the consumers, but may lead to market uncertainty and instability which could potentially discourage the development of renewable energy resources. The potential effect of SB 461 could be to decrease the risks to the renewable energy developers, but at the same time increase the cost risks to the ratepayers.

DBEDT would also like to comment as to whether the utilities' avoided costs should only be based on the prices of fossil fuels especially in light of the Hawaii Clean Energy Initiative's (HCEI) goal of transitioning Hawaii to 70% clean renewable energy by 2030. One requirement for achieving this goal is to increase the Renewable Portfolio Standard to 40% by 2030. To meet this goal, the utilities will have to increase the energy generated from renewable resources by either purchasing from renewable energy producers or by installing utility-owned renewable energy-based generation. By purchasing nonfossil fuel-based generated power, the utilities will avoid incurring the cost of developing their own renewable resources-based generation. Could this cost of utility-owned renewable energy generation avoided by the utility by purchasing renewable energy-based power, be also considered as utility avoided cost for setting purchased power rates? For this, we defer to the Public Utilities Commission.

Thank you for the opportunity to offer these comments.

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TESTIMONY BEFORE THE  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

Tuesday, February 10, 2009  
3:45 p.m.  
Conference Room 225, State Capitol

S.B. NO. 461  
RELATING TO RENEWABLE ENERGY

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

Chair Gabbard, Vice-Chair English, 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.

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 S.B. No. 461 and request its passage. Thank you for the opportunity to testify.





COLLEGE OF SOCIAL SCIENCES  
**HAWAII ENERGY POLICY FORUM**  
UNIVERSITY OF HAWAII AT MANOA

**Hawai'i Energy Policy Forum**

Mr. Robbie Alm, HECO  
Ms. Amy Asselbayer, 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, EDAAH  
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 Pereira, HI State AFL-CIO  
Dr. Rick Rocheleau, UH HNEI  
Mr. Peter Rosegg, HECO  
Mr. Steven Rymsha, KIUC  
Mr. Riley Saito, PowerLight Corp.  
Mr. Glenn Sato, Kauai County OED  
Ms. Carilyn 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 ENERGY AND ENVIRONMENT  
Senator Mike Gabbard, Chair  
Senator J. Kalani English, Vice Chair

Tuesday, February 10, 2009 3:45 p.m.  
Conference Room 225

**IN SUPPORT OF AND SUGGESTING ADDITIONAL LANGUAGE TO:  
SB 461 – 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.

SB 461 would delete the Hawaii State statutory avoided cost ceiling on wholesale energy contracts 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. The Forum unanimously supports SB 461 as a change that is good and necessary.

The Forum also suggests adding the following language so that the Renewable Portfolio Standards section of Chapter 269 conforms to the amendment proposed in SB 461. This language would make SB 461 effectively identical to HB 1270:

Section 269-91, Hawaii Revised Statutes, is amended by amending the definition of "cost effective" to read as follows:

"Cost-effective" means the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or below avoided costs or as the commission otherwise determines to be just and reasonable consistent with the methodology set by the public utilities commission in accordance with section 269-27.2."

For the reasons above the Forum supports SB 461 and suggests amendment.

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*

**SB 461  
RELATING TO RENEWABLE ENERGY**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**FEBRUARY 10, 2009**

Chair Gabbard and Members of the Senate Committee on Energy &  
Environment:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural company Hawaiian Commercial & Sugar Company on SB 461, "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY." We support this bill.

Hawaiian Commercial & Sugar Company (HC&S) has been in operation for over 125 years. While Hawaii's many other sugar companies have shut down over the years, HC&S has been fortunate, through significant investments in our agricultural infrastructure and operations and the implementation of our diversified bio-production program, to have sustained our operations and continue as a major employer in the State of Hawaii. Today, as we face increasingly lower margins from raw sugar production because of flat commodity prices along with increasing production costs, HC&S is in the process of transitioning from a primary producer of commodity sugar into the production of specialty sugar and bio-based products. In addition to being the sole supplier of Sugar In The Raw, the little brown packets of sugar seen at restaurants and coffee shops across the nation, HC&S is also expanding production of our specialty Maui Brand Sugar.

In addition, HC&S generates biomass produced electricity for its sugar milling, irrigation pumping, and other internal operations and also provides electricity to Maui Electric Company (MECO). This biomass electricity is primarily produced by burning bagasse, the residual fiber of the sugar cane plant, as a fuel to generate steam for the production of power. In addition to providing approximately 7% of MECO's electricity, HC&S also serves as a firm power source to MECO, and has played a significant role in the restoration of MECO's electrical service during power outages.

This bill proposes to remove the dependency of the rate for electrical energy generated from non-fossil fuels from the cost of electrical energy generated from fossil fuels. The result will be a significant reduction of the present linkage between the volatile market price of fossil fuels and the rate for the production of non-fossil fuel generated electricity. By minimizing the potential for fluctuations in the public utility reimbursement rates (which presently occur in conjunction with the fluctuation in the market price of fossil fuels), the prospects of attracting new renewable energy producers and retaining present renewable energy producers will be significantly enhanced. The anticipated result will be an overall lowering of Hawaii's dependence on fossil fuel imports and an increase in the prospects of Hawaii's future energy security.

We respectfully request your consideration to incorporate a clarifying amendment to the definition of "cost effective" in HRS Section 269-91, as this definition makes reference to HRS Section 269-27.2, the section to which this bill is amending. We have attached a new Section 2 for your consideration:

**SECTION 2.** Section 269-91, Hawaii Revised Statutes, is amended by amending the definition of "cost effective" to read as follows:

"Cost-effective" means the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or below avoided costs or as the commission otherwise determines to be just and reasonably consistent with the methodology set by the public utilities commission in accordance with section 269-27.2."

Thank you for the opportunity to testify.



**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT**

February 10, 2008, 3:45 P.M.

Room 225

**(Testimony is 2 pages long)**

**TESTIMONY IN SUPPORT OF SB 461**

Chair Gabbard and members of the committee:

The Blue Planet Foundation supports Senate Bill 461, eliminating an existing constraint to increasing electricity generated from non-fossil sources. By removing the existing "avoided cost cap" in statute, SB 461 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 Institute<sup>1</sup> 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.

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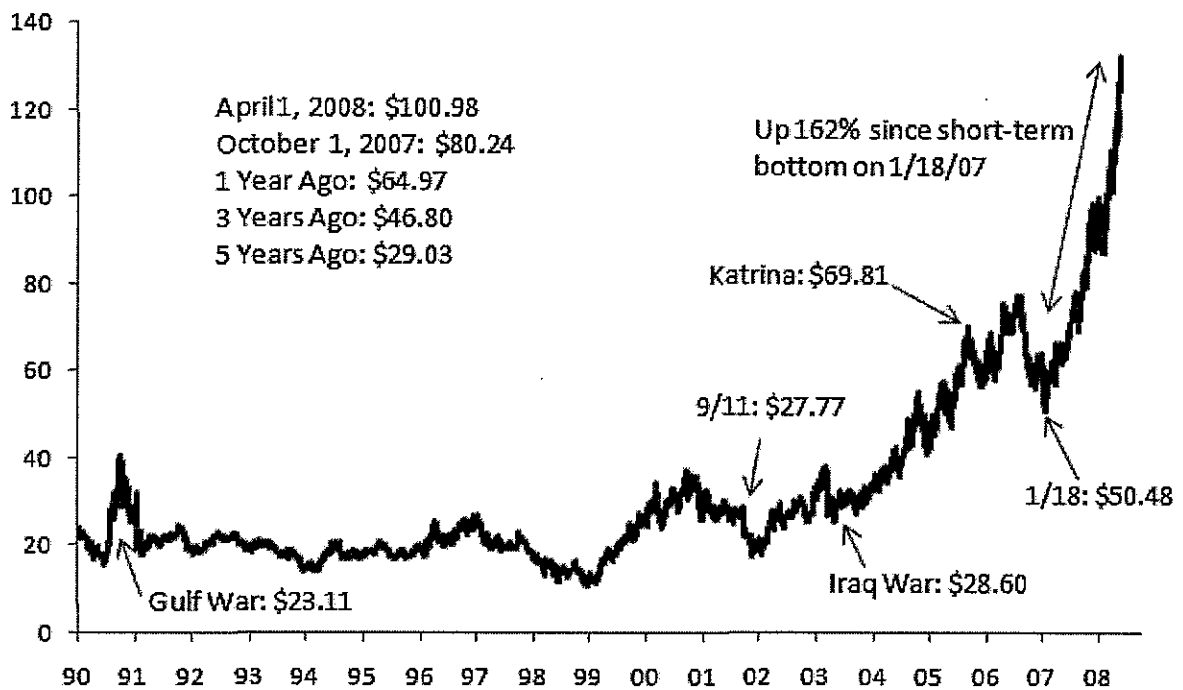
<sup>1</sup> National Regulatory Research Institute. Feed-in Tariffs: Best Design Focusing Hawaii's Investigation. December 2008.

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.

Senate Bill 461 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 SB 461 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**





**Hawaii Solar Energy Association**  
*Serving Hawaii Since 1977*

Feb. 10, 2009  
Room 225  
3:45 P.M

Senate  
Committee on Energy and Environment  
SB461

Mark Duda  
President

**Testimony Support**

**Chair Gabbard, Vice Chair English, and Members of the Committees:**

HSEA supports SB461. As an intervener in the PUC's Feed-in Tariff docket (2008-0273), HSEA is aware that potential tariff regimes yielding financially viable projects would, in all likelihood, require the PUC to have significant latitude in pricing. 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 sufficient pricing flexibility to encourage renewables to enter the market. The amendments proposed in this bill will allow the PUC this flexibility and, as such, are an important element of the legislative and regulatory infrastructure necessary for renewable energy in Hawaii.

Thank you for the opportunity to submit this testimony.

**About the Hawaii Solar Energy Association**

*Hawaii Solar Energy Association (HSEA) was founded in 1977 and is comprised of more than 30 installers, distributors, manufacturers and financiers of solar energy systems, both hot water and PV, most of which are Hawaii based, owned and operated. The organization's primary goals are: (1) to further solar energy and related arts, sciences and technologies with concern for the ecologic, social and economic fabric of the area; (2) to encourage the widespread utilization of solar equipment as a means of lowering the cost of energy to the American public, to help stabilize our economy, to develop independence from fossil fuel and thereby reduce carbon emissions that contribute to climate change; (3) to establish, foster and advance the usefulness of the members, and their various products and services related to the economic applications of the conversion of solar energy for various useful purposes; and (4) to cooperate in, and contribute toward, the enhancement of widespread understanding of the various applications of solar energy conversion in order to increase their usefulness to society.*

**DOWLING  
COMPANY, INC**

Room # 225      3:45 PM      February 10, 2009

**SB461                      RELATING TO RENEWABLE ENERGY**

**Chair Gabbard, Vice-Chair English 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 SB461 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 # 225

3:45 PM

February 10, 2009

## Senate Committee on Energy and Environment

SB461

RELATING TO TAXATION

### **Chair Gabbard, Vice-Chair English 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 in support of **SB461**.

SunPower Systems Corporation ("SunPower") has been a member of the Hawaii Energy Policy Forum since it convened in 2003. 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 SB461** 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 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's 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 nonfossil fuel distributed generated electricity in the Hawaii market.

Mahalo for the opportunity to submit testimony.



# Sierra Club Hawai'i Chapter

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

## SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

February 10, 2009, 3:45 P.M.  
*(Testimony is 1 page long)*

### TESTIMONY IN SUPPORT OF SB 461

Chair Gabbard and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports SB 461, 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.