
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to clarify that
2 third-party owners and operators of on-site solar heat and
3 energy generating equipment are exempt from regulation as public
4 utilities by the public utilities commission. The legislature
5 finds that the development of renewable energy systems is
6 critical to eliminating the State's dependence on imported
7 fossil fuels and reducing carbon emissions. The legislature
8 further finds that solar energy is an important renewable energy
9 resource in Hawaii's renewable energy portfolio, representing an
10 immediately available and substantial renewable energy
11 opportunity. However, since not all Hawaii residents and
12 businesses are able to purchase and operate individual solar
13 energy systems because of financial barriers, third-party on-
14 site systems may offer alternative financing options for more
15 consumers.

16 The legislature finds that exempting third-party suppliers
17 of solar-generated electricity or heat from equipment located on
18 a consumer's property from the definition of "public utility"



1 will promote the use of solar energy by more Hawaii residents.
2 Third-party solar energy providers serve a different purpose
3 than large public utilities do; they provide a supplemental
4 service to voluntary customers who are able to negotiate terms
5 and price instead of supplying necessary services to captive
6 consumers as public utilities do. Therefore, third-party solar
7 energy providers should not be defined as a public utility.

8 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§269- Impact monitoring. The public utilities
12 commission shall monitor the impact of the growth of non-utility
13 renewable energy providers on existing electric utility
14 ratepayers."

15 SECTION 3. Section 269-1, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding a new definition to be appropriately inserted
18 and to read:

19 ""Solar energy system" means any identifiable facility,
20 equipment, apparatus, or the like that converts solar energy to
21 useful thermal or electrical energy for heating, cooling, or



1 reducing the use of other types of energy that are dependent on
2 fossil fuel for their generation."

3 2. By amending the definition of "public utility" to read:

4 "'Public utility":

5 (1) Includes every person who may own, control, operate,
6 or manage as owner, lessee, trustee, receiver, or
7 otherwise, whether under a franchise, charter,
8 license, articles of association, or otherwise, any
9 plant [~~or~~], equipment, or [~~any~~] part thereof, directly
10 or indirectly for public use, for the transportation
11 of passengers or freight, [~~or~~] the conveyance or
12 transmission of telecommunications messages, or the
13 furnishing of facilities for the transmission of
14 intelligence by electricity [~~by land or water or air~~]
15 within the State [~~or~~] or between points within the
16 State [~~or~~] by land, water, or air; for the
17 production, conveyance, transmission, delivery, or
18 furnishing of light, power, heat, cold, water, gas, or
19 oil [~~or~~]; for the storage or warehousing of goods [~~or~~]
20 or; or for the disposal of sewage; provided that the
21 term shall include:



- 1 (A) [~~Any person insofar as that person owns or~~
2 ~~operates~~] The owner or operator of a private
3 sewer company or sewer facility; and
- 4 (B) [~~Any~~] A telecommunications carrier or
5 telecommunications common carrier; and
- 6 (2) Shall not include:
- 7 (A) [~~Any person insofar as that person owns or~~
8 ~~operates~~] The owner or operator of an aerial
9 transportation enterprise;
- 10 (B) [~~Persons owning or operating taxicabs,~~] The owner
11 or operator of a taxicab as defined in this
12 section;
- 13 (C) Common carriers [~~transporting~~] that transport
14 only freight on the public highways, unless
15 operating within localities [øx], along routes,
16 or between points that the public utilities
17 commission finds to be inadequately serviced
18 without regulation under this chapter;
- 19 (D) Persons engaged in the business of warehousing or
20 storage unless the commission finds that
21 regulation [~~thereof~~] is necessary in the public
22 interest;



- 1 (E) [~~The business of any~~] A carrier by water to the
2 extent that the carrier enters into private
3 contracts for towage, salvage, hauling, or
4 carriage between points within the State [~~and~~];
5 provided that the towing, salvage, hauling, or
6 carriage is not pursuant to either an established
7 schedule or an undertaking to perform carriage
8 services on behalf of the public generally;
- 9 (F) [~~The business of any~~] A carrier by water,
10 substantially engaged in interstate or foreign
11 commerce, [~~transporting~~] that transports
12 passengers on luxury cruises between points
13 within the State or on luxury round-trip cruises
14 returning to the point of departure;
- 15 (G) Any person who:
 - 16 (i) Controls, operates, or manages plants or
17 facilities for the production, transmission,
18 or furnishing of power primarily or entirely
19 from nonfossil fuel sources; and
 - 20 (ii) Provides, sells, or transmits all of that
21 power, except [~~such power~~] as is used in its
22 own internal operations, directly to a



1 public utility for transmission to the
2 public;

3 (H) A telecommunications provider only to the extent
4 determined by the public utilities commission
5 pursuant to section 269-16.9;

6 (I) Any person who controls, operates, or manages
7 plants or facilities developed pursuant to
8 chapter 167 for conveying, distributing, and
9 transmitting water for irrigation and [~~such~~]
10 other purposes [~~that shall be held~~] for public
11 use and purpose;

12 (J) Any person who owns, controls, operates, or
13 manages plants or facilities for the reclamation
14 of wastewater; provided that:

15 (i) The services of the facility [~~shall be~~] are
16 provided pursuant to a service contract
17 between the person and a state or county
18 agency and at least ten per cent of the
19 wastewater processed is used directly by the
20 [State] state or county agency which has
21 entered into the service contract;



- 1 (ii) The primary function of the facility [~~shall~~
2 be] is the processing of secondary treated
3 wastewater that has been produced by a
4 municipal wastewater treatment facility
5 [~~that is~~] owned by a state or county agency;
- 6 (iii) The facility [~~shall~~] does not make sales of
7 water to residential customers;
- 8 (iv) The facility may distribute and sell
9 recycled or reclaimed water to entities not
10 covered by a state or county service
11 contract; provided that, in the absence of
12 regulatory oversight and direct competition,
13 the distribution and sale of recycled or
14 reclaimed water shall be voluntary and its
15 pricing fair and reasonable. For purposes
16 of this subparagraph, "recycled water" and
17 "reclaimed water" means treated wastewater
18 that by design is intended or used for a
19 beneficial purpose; and
- 20 (v) The facility [~~shall~~] is not [be] engaged,
21 either directly or indirectly, in the
22 processing of food wastes;



1 (K) Any person who owns, controls, operates, or
2 manages any seawater air conditioning district
3 cooling project; provided that at least fifty per
4 cent of the energy required for the seawater air
5 conditioning district cooling system is provided
6 by a renewable energy resource, such as cold,
7 deep seawater; [and]

8 (L) Any person who owns, controls, operates, or
9 manages plants or facilities primarily used to
10 charge or discharge a vehicle battery that
11 provides power for vehicle propulsion[-]; and

12 (M) Any person who:

13 (i) Owns, controls, operates, or manages a solar
14 energy system that is located on a
15 customer's property; and

16 (ii) Provides, sells, or transmits the
17 electricity generated from that solar energy
18 system exclusively to an electric utility or
19 to the customer on whose property the solar
20 energy system is located, or both; provided
21 that this exemption shall not apply to a
22 customer who sells or re-sells electricity



1 generated by the solar energy systems to
2 lessees, sublessees, or tenants of the
3 customer located on the customer's property;
4 provided further that, for purposes of this
5 clause, a customer's property shall include
6 all contiguous parcels of real property
7 owned or leased by the customer without
8 regard to interruptions in contiguity caused
9 by easements, public thoroughfares,
10 transportation rights-of-way, and utility
11 rights-of-way.

12 If the application of this chapter is ordered by the
13 commission in any case provided in paragraphs (2) (C), (2) (D),
14 (2) (H), and (2) (I), the business of any public utility that
15 presents evidence of bona fide operation on the date of the
16 commencement of the proceedings resulting in the order shall be
17 presumed to be necessary to the public convenience and
18 necessity, but any certificate issued under this proviso shall
19 nevertheless be subject to such terms and conditions as the
20 public utilities commission may prescribe, as provided in
21 sections 269-16.9 and 269-20."



H.B. NO. 1520

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2011.

4

INTRODUCED BY: *Hummel*

JAN 26 2011



Report Title:

Renewable Energy; Public Utilities Commission

Description:

Exempts third-party customer-generated solar energy facilities and equipment from the definition of public utility. Directs the PUC to monitor the impact of decoupling on existing electric utility ratepayers.

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