

Honolulu, Hawaii

Feb 18, 2011

RE: H.B. No. 1176

H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and Consumer Protection & Commerce, to which was referred H.B. No. 1176, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY TRANSMISSION CABLE, "

beg leave to report as follows:

The purpose of this bill is to protect Hawaii's environment, attain Hawaii's independence from fossil fuel reliance, and support the implementation of Hawaii's renewable energy policy and goals. Among other things, this bill:

- (1) Establishes the regulatory structure under which inter-island undersea transmission cables for the transmission of electricity generated from renewable energy as its source could be commercially developed, financed, and constructed;
- (2) Requires a cable company wishing to install a high-voltage undersea transmission cable system to be certified by the Public Utilities Commission (PUC), establishes the criteria for certification, and provides a certification process;
- (3) Requires PUC to approve, by order, the tariff of the certified cable company and establishes a process by which the tariff shall be requested and approved;



- (4) Establishes a surcharge mechanism to allow for the recovery of the high-voltage undersea transmission cable system costs;
- (5) Authorizes PUC to allow an electric utility company to purchase the high-voltage undersea transmission cable system through various means;
- (6) Entitles an electric utility company to recover the company's revenue requirement resulting from the costs that the company incurred in acquiring a high-voltage electric transmission cable system if it meets certain requirements; and
- (7) Exempts amounts received in the form of a surcharge by an electric utility company acting on behalf of a certified cable company from being included as the electric utility's:
 - (A) Gross income when calculating the public service company tax;
 - (B) Gross receipts when calculating the public utilities franchise tax;
 - (C) Gross income, adjusted gross income, and taxable income when calculating the electric utility's income tax; and
 - (D) Gross income when calculating the electric utility's public utilities fee.

Hawaiian Electric Company testified in support of this bill. The Department of Business, Economic Development, and Tourism, and Hawaii Renewable Energy Alliance testified in support of the intent of this measure. The Mayor of the County of Maui, Friends of Lanai, Hawaii Community Stewardship Network, Hawaii's Thousand Friends, Life of the Land, Native Hawaiian Legal Corporation, and numerous concerned individuals opposed this bill. PUC and Blue Planet Foundation provided comments.

Hawaii is one of the most fossil fuel dependent states in the nation with a majority of our oil being imported. This makes the State extremely vulnerable to any oil embargo, supply disruption, international market dysfunction, and many other factors beyond



the control of the State. Furthermore, the continued consumption of conventional petroleum fuel and price volatility can negatively impact the environment and economic health of the people of Hawaii. At the same time, Hawaii has among the most abundant renewable energy resources in the world, in the form of solar, geothermal, wind, biomass, and ocean energy assets.

Increasing energy efficiency and use of renewable energy resources would increase Hawaii's energy self-sufficiency, achieving broad societal benefits, including increased energy security, resistance to increases in oil prices, environmental sustainability, economic development, and job creation. Hawaii's clean energy policy also mandates and strongly promotes the use of renewable energy resources. As the amount and forms of renewable energy differentiates from island to island, establishing an undersea cable capable of transmitting renewable energy generated electricity between islands would help Hawaii achieve its clean energy goals.

However, your Committee does note the concerns raised regarding the establishment of a high-voltage undersea transmission cable system and has amended this bill by:

- (1) Amending the definitions of "cable company", "cable purchase contract", "certified cable company", "commercial operations", "on-island transmission infrastructure", and "request for proposals";
- (2) Inserting new definitions for "cable acquisition cost", "cable surcharge", "commercial operations date", "cost effective", "energy resources coordinator", "expected commercial operations date", "power purchase agreement", and "project-on-project financing risk";
- (3) Designating the State Energy Resources Coordinator to review and evaluate the request for proposals (RFP);
- (4) Clarifying that certification of a cable company wishing to install a high-voltage undersea transmission cable system by PUC shall be as a public utility;
- (5) Stipulating that a certified cable company applicant shall be selected through a RFP or other process approved by PUC;



- (6) Clarifying that PUC shall either approve, disapprove, or approve subject to conditions an application for a certificate of public convenience and necessity rather than simply issue the certificate;
- (7) Eliminating the provision that the fitness of a cable company be determined through an RFP process;
- (8) Allowing rather than requiring PUC to use commercially reasonable, non-recourse project financing for the high-voltage undersea transmission cable system in determining whether an applicant is financially fit;
- (9) Providing PUC with increased flexibility in determining whether high-voltage undersea transmission cable system will be cost effective;
- (10) Expanding the considerations and factors the PUC is required to take into consideration in reviewing and approving an application for certification in situations where the primary source of the renewable electricity that will be transmitted to an electric utility company or companies using the high-voltage electric transmission cable system will be provided pursuant to a power purchase agreement between an electric utility company and an owner of a new renewable generation facility;
- (11) Requiring the ratemaking principles developed by PUC be used in determining the certified cable company's revenue requirement, to determine its transmission capacity charges;
- (12) Allowing the ratemaking principles developed by PUC to be used to fix capital investment costs on which the certified cable company will be allowed to earn an authorized rate of return and the operating costs that may be included in the company's revenue requirement;
- (13) Allowing, rather than requiring, PUC to consider risks assumed by a certified cable company during the predevelopment, development, and commercial operations period related to the high-voltage undersea transmission cable system, along with other factors, in determining the authorized rate of return for the company;



- (14) Clarifying that PUC shall either approve, disapprove, or approve subject to conditions the tariff of the certified cable company rather than simply approving the tariff by order;
- (15) Stipulating that the tariff shall specify the terms and conditions under which the certified cable company will be entitled to receive revenues collected through a cable surcharge;
- (16) Requiring PUC to establish a cable surcharge rather than a cable surcharge mechanism;
- (17) Requiring PUC to determine and approve the status of a high-voltage undersea transmission cable system as "used or useful for public utility purposes";
- (18) Allowing an electric utility company to recover costs associated with acquiring a high-voltage undersea transmission cable system if the acquisition is approved by PUC;
- (19) Stipulating that the on-island transmission infrastructure needs to be available for service prior to the commercial operations date of the high-voltage undersea transmission cable system; and
- (20) Clarifying that the exemption of amounts received in the form of a surcharge from various taxes is specific to the cable surcharge.

Technical, nonsubstantive amendments have also been made for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1176, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1176, H.D. 2, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Energy &
Environmental Protection and
Consumer Protection & Commerce,



ROBERT N. HERKES, Chair

Denny Coffman Vice Chair

for

HERMINA MORITA, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Energy & Environmental Protection

Bill/Resolution No.: HB 1176, HD 1	Committee Referral: EEP/CPC, FIN	Date: 2/17/2011		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EEP Members	Ayes	Ayes (WR)	Nays	Excused
1. MORITA, Hermina M. (C)				✓
2. COFFMAN, Denny (VC)	✓			
3. CABANILLA, Rida T.R.				✓
4. CARROLL, Mele				✓
5. CHANG, Jerry L.	✓			
6. CHONG, Pono				✓
7. HAR, Sharon E.				✓
8. HERKES, Robert N.	✓			
9. ITO, Ken	✓			
10. NAKASHIMA, Mark M.	✓			
11. RIVIERE, Gil		✓		
12. THIELEN, Cynthia			✓	
TOTAL (12)	5	1	1	5
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <u>Denny Coffman</u>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

