TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON FINANCE
MARCH 30, 2011

MEASURE: **S.B. No. 1347 SD1 HD1**
TITLE: **Relating to Public Utilities Commission.**

Chair Oshiro and Members of the Committee:

DESCRIPTION:

This bill directs the Public Utilities Commission ("Commission") to accept filings electronically no later than January 1, 2012.

This bill would also allow the Commission to allocate an electric utility company's costs it incurs to meet renewable energy portfolio standards to its electric utility affiliates and their respective ratepayers if the electric utility company and its subsidiaries aggregate their renewable portfolios to meet renewable portfolio standards. In addition, this bill allows such electric utility companies to use an automatic rate adjustment clause to recover those costs from the aggregated ratebase.

POSITION:

The Commission provides comments on the portion of the bill that directs the Commission to accept filings electronically.

The Commission defers to the Legislature on whether to allow the Commission to permit the cross-subsidiary allocation of RPS costs and the recovery of those costs in rates through an automatic rate adjustment charge but provides comments for your perusal. The passage of this legislation would allow, for example, the electric utility on the Island of Hawaii to charge customers on Oahu and Maui for the costs of renewable energy projects that are used to generate electricity on the Island of Hawaii.

COMMENTS:

With respect to the electronic filing section of the bill, as currently drafted, this bill would allow the Commission only six months to amend its filing rules and to design and implement an electronic filing system. The Commission supports measures that will increase our operational efficiency, but the measures that are implemented, first and foremost, must allow the Commission to maintain the integrity of our official records. That will require going through the RFP and procurement process to obtain a vendor to develop and create an electronic filing system that integrates with our current Docket Management System ("DMS"). Given our current staffing and resource constraints it would be extremely difficult to both complete the rulemaking process, and procure, develop and implement a reliable and appropriate electronic filing system within six months. Therefore, the Commission requests that the bill be amended to require that the rules be in place and electronic filings be accepted no later than July 1, 2012.

Moreover, while the bill allows the Commission to assess a surcharge for electronic filings, this will not help the Commission develop the system. The Commission, therefore, requires an appropriation of $500,000 out of its special fund for that purpose.

With respect to the provision that would allow the Commission to allocate an electric utility company's costs incurred to meet renewable energy portfolio standards to its electric utility affiliates and their respective ratepayers, the Committee should be aware of a proceeding before the Commission involving a proposed biofuel renewable energy project to be located on the Island of Hawaii. On January 6, 2011, the Hawaiian Electric Companies ("HECO Companies")[1] requested approval of a Biodiesel Supply Contract between HELCO and Aina Koa Pono-Ka'u LLC, for the delivery and sale of approximately sixteen million gallons of locally-produced biodiesel over twenty years. The biodiesel produced and delivered under the Biodiesel Supply Contract is intended for consumption primarily on the Island of Hawaii. Because it is anticipated that for the near future the cost of the locally-produced biodiesel will be higher than fossil fuel derived diesel, to relieve the HELCO ratepayers of carrying all of that burden, the HECO Companies proposed to establish a Biofuel Surcharge to charge customers of HECO, MECO, and HELCO for the price differential between the locally-produced renewable biodiesel to be purchased by HELCO under the proposed contract, and the cost of fossil fuel derived diesel. The HECO Companies contended that the Commission had the authority to implement the Biofuel Surcharge Provision among all HECO, HELCO, and MECO customers. The Commission found, however, in its Decision and Order dated March 4, 2011, in Docket No. 2011-0005 (the "Decision and Order") that under State law, while HELCO is allowed under its franchise to charge its consumers for **the use** of electricity, HELCO's franchise does not authorize HELCO, explicitly or implicitly, to charge any non-consumers for the electricity HELCO produces or delivers to HELCO's consumers. In other words, the consumers of electricity who may be charged by HELCO, are the consumers of electricity that is produced or delivered by HELCO, and does not include MECO's and HECO's consumers. The Commission, in the Decision and Order, denied the HECO

[1] Hawaiian Electric Company, Inc.; Maui Electric Company, Limited; and Hawaii Electric Light Company, Inc.

Companies' request to implement their proposed Biofuel Surcharge Provision, because the HECO Companies would assess a biofuel surcharge on non-HELCO customers (i.e., the HECO Companies' customers on Oahu and Maui), which is not currently authorized by State law.

This bill would provide the Commission with the authority to allow an electric utility company, such as HELCO on the Big Island of Hawaii, to charge the HECO Companies' customers on Oahu and Maui for some of the costs HELCO will incur to help the HECO Companies satisfy the renewable portfolio standards, and to help to mitigate the costs that otherwise would be borne solely by HELCO's ratepayers .

Of course this law, if passed, would also enable any of the HECO Companies to allocate renewable energy costs to its other affiliates and their respective ratepayers.

If the Legislature decides to pass this legislation, the Commission recommends certain clarifications and amendments:

On page 7, line 3, "(b) If an electric utility company and its electric utility affiliates aggregate their renewable portfolios to achieve the renewable portfolio standard, the public utilities commission may distribute, apportion, or allocate the costs and expenses of all or any portion of the respective renewable portfolios among the electric utility company and its ratepayers, and the electric utility company's electric utility affiliates and their respective ratepayers, as is reasonable under the circumstances."

Thank you for the opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
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TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

WEDNESDAY, MARCH 30, 2011
3:00 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY,
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS,
TO THE HONORABLE MARCUS R. OSHIRO, CHAIR,
AND MEMBERS OF THE COMMITTEE

SENATE BILL NO. 1347, S.D. 1, H.D. 1 – RELATING TO THE PUBLIC UTILITIES COMMISSION.

DESCRIPTION:

This measure proposes to allow public utilities to file applications for rate changes either electronically or as paper documents with the Public Utilities Commission ("Commission").

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") strongly supports this measure.

COMMENTS:

This measure seeks to modernize the Commission's practices and procedures by providing public utilities with the option of filing their applications for rate changes as either an electronic document or a paper filing. The Consumer Advocate notes that the amendment builds upon trends seen in the nation's federal court systems and the Hawaii appeals court system which permit electronic filing of court documents. The

Consumer Advocate believes that the proposed amendment would streamline the regulatory process for those entities regulated by the Commission and would result in efficiencies in terms of the reduction of duplicated effort by Commission staff (for example, file stamping paper applications received by the Commission, scanning paper filings into the Commission's Document Management System, etc.).

SB 1347 S.D. 1, H.D. 1 amends Hawaii Revised Statutes Section 269-93, Achieving Portfolio Standard, to allow the Public Utilities Commission to allocate the costs of renewable energy generation among the electric utilities' affiliates as the Commission deems reasonable. This legislation is in response to the Commission's recent Decision & Order in Docket No. 2011-0005 in which the Commission denied the HECO Companies request to surcharge non-HELCO ratepayers for biodiesel that would be produced and used on the Big Island only. The Commission reasoned that legal and rate-making principles prevented the surcharge from being spread to ratepayers who did not directly benefit from the biodiesel even if the biodiesel power purchase agreement (PPA) arguably benefited all ratepayers, because it helped HECO meet its Renewable Portfolio Standard (RPS) goal. The Consumer Advocate supports SB 1347, S.D. 1, H.D. 1, as it would provide the Commission the legal basis to allow HECO to surcharge all HECO affiliates' ratepayers (in particular Oahu) in the instance of the Big Island biodiesel PPA and in similar circumstances involving renewable energy.

This bill also gives the electric utility the ability to recover its "revenue requirement resulting from the distribution, apportionment, or allocation of the costs and expenses of the renewable portfolios of the electric utility and its electric utility affiliates" by way of an automatic rate adjustment clause. The Consumer Advocate has no objection to this, but suggests that it be made clear that the Commission be given the authority to review and approve these costs before recovery from ratepayers will be allowed.

Page 7, lines 10 to 15, should read as follows:

"(c) An electric utility company may recover, through an automatic adjustment clause, the electric utility company's revenue requirement resulting from the distribution, apportionment, or allocation of the costs and expenses <u>reviewed and approved by the commission</u> of the renewable portfolios of the electric utility company and its electric utility affiliates."

Thank you for this opportunity to testify.

SB 1347 SD1 HD1

RELATING TO THE PUBLIC UTILITIES COMMISSION

KEN HIRAKI
VICE PRESIDENT
GOVERNMENT AND COMMUNITY AFFAIRS

HAWAIIAN TELCOM

March 30, 2011

Chair Oshiro and members of the House Finance Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on SB 1347 SD1 HD1, Relating to the Public Utilities Commission.

The primary purpose of this measure is to amend HRS 269 by allowing regulated utilities the option to electronically file certain required documents with the Public Utilities Commission (PUC). Hawaiian Telcom supports this "green" initiative.

The advantages of electronic filing are compelling. Numerous governmental agencies on the federal, state, and local levels have embraced electronic filing of documents as a benefit to both the regulator and regulated community to promote operational efficiency, reduce labor and paper costs, and conserve our natural resources. Presently Hawaiian Telcom filings required by the PUC are confined to either regular mail or hand delivery of the original required paper document plus multiple copies (sometimes up to twelve extra copies).

Electronic filing will also increase governmental transparency and speed up the posting of public documents on the PUC website by removing delivery and reproduction delays inherent with regular mail or hand delivery. In this era of technology, Hawaiian Telcom supports the growing governmental trend toward adoption of electronic delivery of documents as an acceptable alternative to paper delivery.

Hawaiian Telcom recommends that the language establishing an electronic document surcharge found on page 2, lines 15 to 18, page 4, lines 12 to 15, and page 6 lines 9-12 be eliminated because this new fee will discourage rather than encourage paperless filing. In addition, the bill provides for a graduated electronic filing system so the initial PUC startup cost should be minimal. We assume the early stage of electronic filing will allow for delivery of information on CD-R's and will gradually increase based on available funding until submission is eventually allowed through an internet-based system maintained by the PUC.

Hawaiian Telcom has no comment on the amendment made in the CPC Committee related to the allocation of costs and expenses of the renewable portfolios of the electric utility company.

Based on the aforementioned, Hawaiian Telcom respectfully requests that this measure be passed with our suggested amendments. Thank you for the opportunity to testify.

AINA KOA PONO
Topa Financial Center, 745 Fort Street Mall, Suite 1603, Honolulu, HI 96813

HOUSE COMMITTEE ON FINANCE

Testimony of
CHRISTOPHER ELDRIDGE
Partner, Aina Koa Pono, LLC

SB 1347, SD1, HD1
RELATING TO THEPUBLIC UTILITIES COMMISSION

Wednesday, March 30, 2011, 3:00 p.m.
House Conference Room 308

Chair Oshiro and Members of the Committee:

Aina Koa Pono ("AKP") strongly supports SB 1347, SD1, HD1. This measure would allow electric utility companies to achieve their renewable energy portfolio goals by allocating project costs among their electric utility affiliates. AKP is a locally-owned entity which seeks to bolster the state's renewable energy portfolio by building a biofuel production facility in Ka`u. The facility will produce up to 24 million gallons of biodiesel per year. It will create hundreds of long-term, high-paying jobs, will bring outside investment into Hawai`i, will return agricultural lands to productive use, and will help Hawai`i towards energy independence. Most importantly, a plant of this size will lead the way for an entire biofuel industry in Hawai`i.

In January 2011, AKP and HELCO entered into a contract for AKP to supply HELCO with up to 16 million gallons of biofuel per year. This contract is the cornerstone on which AKP is financing and developing the project. But this contract is threatened by a recent ruling from the PUC which prohibits HELCO from allocating some of the costs of the project to its affiliates. Although biofuel will soon be cheaper than petroleum-based oil, it will be more expensive for the first few years while the industry is developing.

The state cannot expect Hawai`i Island rate-payers to shoulder this increase in utility costs by themselves, when the project will open a new industry in Hawai`i, will significantly advance the statewide goals of developing clean and independent energy sources, and will insulate the state from spikes in the price of petroleum fuels. Accordingly, any short-term rate increases in utility rates as a result of this project should be allocated across the state.

SB 1347, SD1, HD1 would amend HRS § 269-93 to allow HELCO and other electric utilities to allocate project costs among their affiliates in order to meet their renewable portfolio standards, subject to PUC approval.

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If the allocation of project costs is not allowed, large-scale biofuel projects like AKP will not succeed. This would be a tremendous loss for the state. During these tough economic times, the HELCO-AKP project—and other similar projects—offer a way to achieve substantial economic growth at no cost to the state's own coffers, all while helping Hawai`i achieve its goals of clean and independent energy.

Please support SB1347, SD1, HD1 to allow the allocation of project costs among electric utility affiliates as part of its renewable energy portfolio. Thank you for the opportunity to testify on this matter.

TESTIMONY BEFORE THE
HOUSE COMMITTEE ON FINANCE

Wednesday, March 30, 2011
3:00 p.m., Agenda #6

S.B. NO. 1347, S.D.1, H.D.1

RELATING TO THE PUBLIC UTILITIES COMMISSION.

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

Chair Oshiro, Vice-Chair Lee, and Members of the Committee:

My name is Kevin Katsura providing testimony support of S.B. No. 1347, S.D.1, H.D.1 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

The bill, among other things, clarifies the legislative intent that the renewable portfolio costs of an electric utility and its affiliates may be aggregated and allocated among the customers of the utilities when the electric utility and its affiliates are aggregating their renewable portfolios in order to achieve the renewable portfolio standard.

The development of Hawaii's renewable resources represents a substantial and long-term source of indigenous energy that could be used to generate electric energy to meet the State's electric energy needs and concurrently help to reduce the State's need for imported fossil fuels.

HRS Chapter 269, Part V, was enacted in order to facilitate and accelerate the development of these renewable resources and further the State's goal of energy independence. The Public Utilities Commission was mandated to develop and implement a utility rate-making structure to provide incentives to encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet the renewable portfolio standards.

Renewable energy facilities generally exist at specific locations based on the resource involved and are geographically constrained. Currently, renewable energy facilities utilizing Hawaii's renewable resources, such as geothermal, wind and biomass, are more easily developed and are often only available on the neighbor islands. Accordingly, HRS § 269-93 allows the Renewable Portfolio Standards to be achieved on a consolidated company basis.

There are far fewer suitable sites for substantial renewable resources on some islands, such as Oahu, even though Oahu contributes most to the total kilowatthour sales against which the consolidated Renewable Portfolio Standards energy targets must be measured. Thus, Oahu benefits from the neighbor islands' implementation of renewable energy projects without the associated cost, as the costs associated with such renewable energy projects are absorbed by the utilities' respective customers on those neighbor islands.

The ultimate goals of Renewable Portfolio Standards, namely reducing Hawaii's reliance on imported petroleum fuels and transitioning Hawaii to a renewable energy state, benefit all customers and the State of Hawaii.

For these reasons we ask that this committee pass S.B. 1347, S.D.1, H.D.1.

Thank you for the opportunity to testify.