

**TESTIMONY OF HERMINA M. MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

MARCH 28, 2011

MEASURE: S.B. No. 704 SD2
TITLE: Relating to Renewable Energy.

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill exempts third-party customer-generated solar energy facilities and equipment from the definition of public utility.

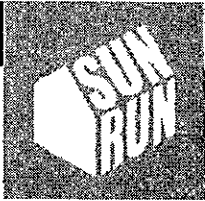
POSITION:

The Commission does not object to this bill.

COMMENTS:

Under the current definition of "public utility" in Section 269-1, HRS, it could be argued that the innovative business models of companies such as SunRun place them within the definition of a public utility. While the Commission may not find such an argument persuasive, it may be best to clarify the law, as reflected by a similar bill in H.B. No. 1520 HD2, so that companies using these business models can continue to help more Hawaii consumers benefit from solar energy systems on their properties.

Thank you for the opportunity to testify.



TESTIMONY IN STRONG SUPPORT OF SB704, SD2

To: House Committee on Consumer Protection & Commerce

Monday, March 28th, 2011

Aloha Chair Herkes, Vice Chair Yamane, and members of the Committee:

SunRun believes that every homeowner should have access to clean, affordable energy. As the leading home solar services provider in the U.S, SunRun owns and operates more home solar systems than any other company and allows customers to adopt solar for little to no money upfront. Founded in 2007, SunRun currently serves more than 8,000 customers in 7 states.

SunRun supports SB704, SD2 for three primary reasons:

1. **SunRun believes that third-party solar services are an important option for Hawaii homeowners and institutions that are interested in clean solar electricity.** Third-party solar services fill a significant void in the market for interested parties that are not capable of providing the upfront investment necessary or that choose not to take on the on-going ownership responsibility of maintaining a solar facility.
2. **Third-party solar services provide competitive services and choice for Hawaii residents and institutions.** In contrast to a public utility that maintains and manages a natural monopoly of fixed transmission and distribution infrastructure, third-party solar services are a choice for Hawaii's homeowners, businesses, schools, and government buildings. These services supplement – they do not entirely replace – traditional grid services. As such, they are not indispensable for customers and they do not provide a public service.
3. **SB704, SD2 will provide additional clarity to Hawaii's solar market that will further stimulate new growth and environmental benefits.** Hawaii's solar market development has and is poised to continue creating new clean energy jobs and reducing the state's dependence on environmentally damaging fuel sources for electricity.

SB704, SD2 is critical for the future growth of Hawaii's solar market. SunRun is supportive of making the exemption applicable to other renewable energy providers as well, provided that this broadening does not impede SB704, SD2's passage.

Thank you for the opportunity to provide testimony in support of SB704, SD2.

**THE SOLAR
ALLIANCE
MEMBER
COMPANIES**

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BP Solar
Community Energy
Element Power
First Solar
enXco
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Mitsubishi Electric
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SolarCity
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Solar Power Partners
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SunRun
SolarWorld
SPG Solar
SunEdison
SunPower
Suntech
Tioga Energy
Trinity Solar
Unirac
Uni-Solar

**Working with the
states to develop
cost-effective PV
policies and
programs.**



TESTIMONY IN STRONG SUPPORT OF SB704, SD2

To: House Committee on Consumer Protection & Commerce

Hearing on March 28, 2011 at 2p.m. in Room 325

From: The Solar Alliance

Aloha Chair Herkes, Vice Chair Yamane and members of the Committee:

The Solar Alliance is in strong support of SB704, SD2 because it provides clarity to HRS sec. 269-1 and recognizes that Third-party PV owner/operators are exempt from the definition of a public utility.¹

Such clarity will expedite the ability to make more solar energy systems available to all homeowners, commercial business owners, schools and government buildings in Hawaii.

Many people think that if we want solar, all that is necessary is to go out and install PV panels. It is not that simple because many residents and businesses in Hawaii are either unwilling or unable to purchase and operate individual solar energy systems for a variety of reasons. Third-party PV owners/operators fill that void.

Third-party PV owners/operators monetize federal and state tax credits, provide cost-effective financing, and professionally install, monitor, operate and maintain individual solar energy systems on a customer's property, providing the power directly to the customer. Thus, the customer avoids much of the difficulty associated with developing and installing solar systems.

Third-party PV owners/operators, however, are not public utilities. Unlike an electrical public utility, a Third-party PV owner/operator only provides supplemental power to the customer and, the customer is still connected to the electrical public utility grid. The Third party PV owner/operators' services are not indispensable to the customer and the Third party PV owner/operator is not the provider of last resort. The solar services provided by the third party developer are not a monopoly service and as such no "obligation to serve exists." Conversely, the public does not have a right to demand solar electric service from providers in the very competitive marketplace that exists for such solar development. The agreement between the

¹ This Committee in its wisdom passed out its House companion, HB1520, HD1.

Third-party PV owner/operator and the customer is voluntary; meaning price and all terms and conditions are negotiated at arms length, with all traditional contracting party rights retained.

In addition, passage of this legislation removes a barrier to Third-party PV owners/operators entering the state, adding jobs and increasing the existing competition in the solar industry, ensuring that solar companies offer the most compelling product available for the customer.

The Solar Alliance does not object to making this exemption applicable to all third party renewable energy suppliers. However, the inclusion of such language should not hinder the passage of SB704, SD2, specifically in regards to clarifying that Third-party PV owner/operators are exempt from the definition of a public utility. As stated above, this bill is vital to expedite the ability to make more solar energy systems available to all homeowners, commercial business owners, schools and government buildings in Hawaii.

Thank you for the opportunity to provide testimony in strong support of SB704, SD2.

(The Solar Alliance is a state-focused association of solar manufacturers, integrators, and financiers specifically working with state administrators, legislators, and utilities to establish cost-effective solar policies and programs. Our experience in Hawaii includes, but is not limited to, (i) being an intervenor in the Public Utilities Commission's ("PUC") Feed-in Tariffs Investigation; (ii) having a member be an intervenor in the Commission's Intra-Governmental Wheeling Docket; (iii) having a member serve on the Generating Committee of the Hawaii Clean Energy Initiative ; and (iv) having a member serve on the Hawaii Energy Policy Forum since it convened in 2003.)



TESTIMONY IN SUPPORT OF SB 704, SD2

To: House Committee on Consumer Protection & Commerce

From: SolarCity

Hearing on March 28, 2011 at 2:00 p.m., Room 325

Aloha Chair Herkes and Members of the Committee:

SolarCity is a full service provider of photovoltaic (PV) solar power systems for homeowners, businesses, not-for-profit organizations, and government entities. SolarCity provides integrated PV solar system design, financing, installation, leasing, maintenance, and monitoring services, and is the nation's leading solar service provider, with more than 1,100 employees in Hawaii and other states.

SolarCity supports SB 704, SD2 because it provides clarity to HRS section 269-1 and confirms that third-party PV owner/operators do not fall within the state's definition of a public utility.

As you may know, many residents, businesses and government entities in Hawaii are either unwilling or unable to purchase and operate individual solar energy systems for a variety of reasons. SolarCity and other third-party PV owner/operators fill that void by monetizing federal and state tax credits and providing cost-effective financing. This enables customers to avoid much of the difficulty associated with developing and installing solar systems.

Third-party PV owner/operators are not public utilities. Unlike an electrical public utility, a third-party PV owner/operator provides only supplemental power to the customer, and the customer remains connected to the electrical public utility grid.

The third party PV owner/operator is not the provider of last resort. The solar services it provides are not a monopoly service, and no

“obligation to serve” exists. Moreover, the agreement between the third-party PV owner/operator and the customer is voluntary, meaning price and all other terms and conditions are negotiated at arms-length, with all traditional contracting party rights retained.

The clarity provided by SB 704 will lead to continued availability of solar energy systems to all residents, businesses and government entities in Hawaii. This, in turn, will create additional jobs in Hawaii and increase competition in the solar industry, ensuring that Hawaii customers are offered the most compelling solar products available.

California and other states already have enacted statutes clarifying that third-party PV owner/operators do not fall within the state definition of public utility. It makes sense for Hawaii to do the same, which will help attract further investment in the solar industry and create additional green jobs.

Thank you for the opportunity to provide testimony in support of SB 704.

Mahalo,

Pete Cooper
Regional Director, Hawaii

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John Crouch
SPSI, LLC

Herbert M. (Monty) Richards
Kahua Ranch Ltd.

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

SB 704 SD2, RELATING TO RENEWABLE ENERGY

March 28, 2011

Chair Herkes, Vice-Chair Yamane and members of the Committee, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about the energy future of Hawaii. HREA's mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of HREA's goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of SB 704 SD2 is to exempt certain third party owners and operators of on-site renewable energy systems from regulation as public utilities by the public utilities commission.

HREA **strongly supports** this measure as it supports the state's overall clean energy objectives, and we offer the following comments in support.

By their nature, customer-sited renewable facilities such as wind, biomass and hydro, help individual (or a small group of) consumers meet their energy needs. We view the developer or energy service company that provides the facility to the consumer (s) as "private utilities", rather than "public utilities" that serve a large number of consumers and has the "obligation to serve" via a monopoly franchise, and is therefore regulated (such as Hawaii Electric Company) by the public utilities commission.

Therefore, third-party developers, owners and operators of customer-generated renewable energy facilities are not public utilities, and should not be subject to regulations by the public utilities commission.

Thank you for this opportunity to testify.