

# HOUSE OF REPRESENTATIVES

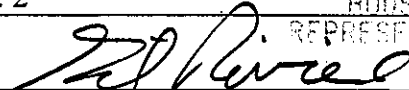
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AMENDMENT TO: S.B. No. 2785, S.D. 2, H.D. 2

CHIEF CLERK'S OFFICE  
HOUSE OF  
REPRESENTATIVES

OFFERED BY: Representative Gil Riviere



DATE: April 10, 2012

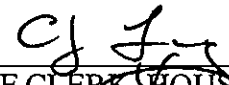
SECTION 1. Senate Bill No. 2785, S.D. 2, H.D. 2, is amended by amending section 2 to read as follows:

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

**"PART . INTERISLAND TRANSMISSION SYSTEM**

**§269-A Definitions.** As used in this part:

"Cable acquisition cost" means the electric utility company's costs, including reasonable transaction costs, to acquire a high-voltage electric transmission cable system pursuant to a turnkey cable contract or a cable purchase contract.

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 CHIEF CLERK, HOUSE OF REPRESENTATIVES		

"Cable company" means any person or persons, company, corporation, or entity that is selected through a request for proposals, or other process approved by the commission, to be a certified cable company applicant.

"Certified cable company" means any person or persons, company, corporation, or entity who owns or controls a high-voltage electric transmission cable system and who receives a certificate of public convenience and necessity from the commission pursuant to section 269-B.

"Commercial operations" means the period after the high-voltage electric transmission cable system:

- (1) Passes acceptance tests approved by the commission, as determined by a qualified independent engineer approved by the commission; and
- (2) Meets other criteria the commission determines to be reasonable.

"Commercial operations date" means the date upon which the high-voltage electric transmission cable system begins commercial operations, as determined by the commission.

"Commission" means the public utilities commission.

"Cost-effective" has the same meaning as in section 269-91.

"Electric utility company" means a public utility as defined in section 269-1, for the production, conveyance, transmission, delivery, or furnishing of electric power.

"Electric utility system" means the electric system owned and operated by an electric utility company, including any non-utility owned facilities that are interconnected to the system, consisting of power plants, transmission and distribution lines, and related equipment for the production and delivery of electric power to the public.

"Energy resources coordinator" or "coordinator" means the director of business, economic development, and tourism.

"High-voltage electric transmission cable system" means one hundred twenty kilovolts or greater of alternating current or direct current transmission cables constructed undersea, including connected transmission cables or lines installed on land that connect the electric utility systems on two or more islands or allow for the transmission of power from one or more energy generation facilities to the electric utility system located on another island of the State; alternating current substation or alternating current-direct current converter station; on-island transmission infrastructure if required; fiber optic communication cables; and other appurtenant facilities.

"On-island transmission infrastructure" means the modifications and additions to the existing alternating current transmission grid on an island and other electric utility system modifications needed to reliably connect a high-voltage electric

transmission cable system to an electric utility system, and to reliably accept power transmitted via the high-voltage electric transmission cable system connecting two or more islands of the State's electric utility systems.

"Power purchase agreement" means an agreement between an electric utility company and the developer of an energy generation facility to sell the power generated by the facility to the electric utility company.

"Project-on-project financing risk" means the risk involved when mutually dependent projects, whose risk of completion, and therefore, financing, are dependent on each other.

"Renewable electricity" means electrical energy generated using renewable energy as the source.

"Renewable energy" has the same meaning as in section 269-91.

"Renewable energy generation facility" means a facility generating electrical energy using renewable energy as the primary source.

"Renewable portfolio standard" has the same meaning as in section 269-91.

"Request for proposals" means a request for proposals issued pursuant to a competitive process authorized, reviewed, and approved by the commission, and developed and conducted by the electric utility company or companies to which the capacity

of a high-voltage electric transmission cable system will be made available, with input and assistance from the state energy resources coordinator, to select a cable company.

**§269-B Certification.** (a) Prior to installing a high-voltage electric transmission cable system, a cable company shall be selected through a request for proposals, or other process approved by the commission. The selected cable company shall not commence commercial operations of the high-voltage electric transmission cable system until it is issued a certificate of public convenience and necessity by the commission pursuant to section 269-7.5. A certified cable company shall be subject to regulation by the commission and defined as a "public utility" under section 269-1, notwithstanding any law to the contrary.

(b) The electric utility company and the energy resources coordinator, or the energy resources coordinator's designee, shall develop the request for proposals, and the energy resources coordinator or the energy resources coordinator's designee shall be a member of the selection committee that will review and evaluate the proposals. The electric utility company shall suspend or terminate the request for proposals at the discretion of the commission.

(c) Notwithstanding any provisions in section 269-7.5 to the contrary:

- (1) The commission shall approve, disapprove, or approve subject to certain conditions, an application for a certificate of public convenience and necessity for a high-voltage electric transmission cable system, and shall issue a final order within one hundred eighty days after the application is filed, provided that the commission may extend the timeline as necessary;
- (2) In determining whether the cable company is financially fit, the commission may allow for the use of commercially reasonable non-recourse project financing for the high-voltage electric transmission cable system;
- (3) In determining whether the proposed transmission capacity service is or will be required by the present or future public convenience and necessity, the commission shall determine whether the high-voltage electric transmission cable system would be a cost-effective means of:
  - (A) Interconnecting two or more electric utility systems;
  - (B) Helping one or more electric utility companies meet the applicable renewable portfolio standard;or

- (C) Achieving other considerations the commission may deem appropriate;
- (4) If the primary source or sources 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 or agreements between the electric utility company or companies and an owner or owners of a new renewable energy generation facility or facilities, in reviewing and approving the application for a certificate of public convenience and necessity, the commission shall, among other factors, take into consideration:
  - (A) The status of the power purchase agreement or agreements;
  - (B) The extent to which the project-on-project financing risk of the high-voltage electric transmission cable system and the associated renewable energy generation facilities is materially reduced through agreements between the certified cable company and the owner or owners of the renewable energy generation facilities holding the power purchase agreement or

agreements, or through common ownership arrangements; and

(C) The extent to which the certified cable company assumes financial responsibility for the high-voltage electric transmission cable system until both the cable system and the new generation facility or facilities have achieved commercial operations;

(5) In the certification process, the commission shall review and determine ratemaking principles appropriate and applicable to the high-voltage electric transmission cable system during commercial operations. The ratemaking principles shall be used in determining the certified cable company's revenue requirement that is used to determine its transmission capacity charges, and may be used to fix the capital investment costs for the high-voltage electric transmission cable system upon 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 certified cable company's revenue requirement. Any applicable land costs shall be included in the determination of the certified cable company's revenue requirement;



- (6) In determining the authorized rate of return that will apply to a certified cable company, the commission may consider the risks assumed by the certified cable company related to or resulting from the planning, financing, construction, and operation of the high-voltage electric transmission cable system, including other factors deemed relevant and appropriate by the commission, such as the terms and conditions of the transmission tariff as may be approved by the commission;
- (7) Prior to approving the application for a certificate of public convenience and necessity, the commission shall hold a public hearing on each island to be connected by the high-voltage electric transmission cable system to obtain input from the affected communities about the high-voltage electric transmission cable system; and
- (8) In no event shall the high-voltage electric transmission cable system be connected to any island populated by less than fifty thousand residents.

**§269-C Transmission tariff.** The commission shall, by order, approve, disapprove, or approve subject to certain conditions, the tariff of the certified cable company pursuant to which the certified cable company shall make the capacity of

its high-voltage electric transmission cable system available to the electric utility company or companies. The tariff shall be consistent with the tariff provisions provided in the request for proposals, unless otherwise ordered by the commission. The tariff shall specify the terms and conditions under which the certified cable company will be entitled to receive revenues collected through the cable surcharge, established pursuant to section 269-D. The certified cable company may submit its proposed tariff for approval prior to the expected commercial operations date, and the commission shall take final action on the proposed tariff within one hundred twenty days after submittal of the proposed tariff with supporting documentation as may be required by the commission; provided that the commission may extend the timeline as necessary.

**§269-D Cable surcharge.** (a) The commission shall establish a cable surcharge to allow recovery of the high-voltage electric transmission cable system costs designated for recovery according to the ratemaking principles pursuant to section 269-B.

(b) Pursuant to the transmission tariff, the commission shall, by order, designate the electric utility company or companies to which the capacity of the high-voltage electric transmission cable system shall be made available as the agent of the certified cable company to collect the cable surcharge

approved by the commission. The electric utility company or companies collecting the cable surcharge for the benefit of the certified cable company shall have no right, title, or interest in the moneys so collected. The commission shall approve a fee, to be collected by the electric utility company or companies concurrently with the cable surcharge, for acting as the collection agent for the certified cable company.

(c) Notwithstanding any requirements to the contrary, a high-voltage electric transmission cable system may be deemed "used or useful for public utility purposes" upon commencing commercial operations, subject to the commission's determination and approval.

**§269-E Recovery of electric utility company costs.** (a) An electric utility company may recover, through an automatic rate adjustment clause, its revenue requirement resulting from the capital costs that it prudently incurs for on-island transmission infrastructure; provided that the commission has approved the utility's commitment of capital expenditure costs for the project.

(b) To provide for timely recovery of the revenue requirement, the commission shall establish a separate automatic rate adjustment clause for that purpose, or modify an existing automatic rate adjustment clause. The use of the automatic rate adjustment clause to recover the revenue requirement shall be

allowed to continue until the revenue requirement is incorporated in rates in an electric utility company's rate case.

(c) The electric utility company's revenue requirement shall include:

- (1) The commission-approved rate of return, as set in the electric utility company's last rate case, on the utility's net investment in the high-voltage electric transmission cable system from the acquisition date of the high-voltage electric transmission cable system, and in the on-island transmission infrastructure from the date the on-island transmission infrastructure is completed and available for service;
- (2) Depreciation; and
- (3) Revenue taxes and other relevant costs as approved by the commission.

(d) The electric utility company's net investment includes costs incurred by the electric utility for planning, permitting, and constructing the on-island transmission infrastructure, including an allowance for funds used during construction where the utility finances the planning, permitting, and construction costs, less offsets such as accumulated depreciation and associated unamortized deferred income taxes.

(e) The on-island transmission infrastructure shall be available for service before the commercial operations date of the high-voltage electric transmission cable system.

Notwithstanding any other provision in this chapter to the contrary, at the time the commission approves the electric utility company's commitment of capital expenditure costs for the project, the commission may either:

- (1) Allow the electric utility company to recover its approved revenue requirement resulting from the capital costs that it prudently incurs for on-island infrastructure at the time that the infrastructure is available for service; or
- (2) Allow the company to continue to accrue an allowance for funds used during construction on such prudently incurred capital costs until the commercial operations date for the high-voltage electric transmission system.

(f) If the electric utility company elects not to complete the on-island transmission infrastructure, and the commission approves this election, or the electric utility company is precluded from completing construction of the on-island transmission infrastructure, the electric utility company shall be allowed to recover reasonable costs determined by the commission to have been prudently incurred by the electric

utility company with respect to the on-island transmission infrastructure. The electric utility company shall be allowed by the commission to recover the reasonable costs through the cable surcharge over a period equal to the period during which the costs were incurred or five years, whichever is greater."