

JAN 25 2012

A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1 SECTION 1. Section 269-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "public utility" to read
3 as follows:

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 or
10 indirectly for public use for the transportation of
11 passengers or freight; for the conveyance or
12 transmission of telecommunications messages; for the
13 furnishing of facilities for the transmission of
14 intelligence by electricity within the State or
15 between points within the State by land, water, or
16 air; for the production, conveyance, transmission,
17 delivery, or furnishing of light, power, heat, cold,
18 water, gas, or oil; for the storage or warehousing of



1 goods; or for the disposal of sewage; provided that
2 the term shall include:

3 (A) An owner or operator of a private sewer company
4 or sewer facility; [and]

5 (B) A telecommunications carrier or
6 telecommunications common carrier; and

7 (C) Notwithstanding any provision to the contrary, an
8 owner or operator of a high-voltage electric
9 transmission cable system for transmission of
10 electricity between islands, regardless of
11 whether the electricity is produced from
12 nonfossil fuel sources; provided that the
13 commission finds that regulation is necessary in
14 the public interest; and

15 (2) Shall not include:

16 (A) An owner or operator of an aerial transportation
17 enterprise;

18 (B) An owner or operator of a taxicab as defined in
19 this section;

20 (C) Common carriers that transport only freight on
21 the public highways, unless operating within
22 localities, along routes, or between points that



1 the public utilities commission finds to be
2 inadequately serviced without regulation under
3 this chapter;

4 (D) Persons engaged in the business of warehousing or
5 storage unless the commission finds that
6 regulation is necessary in the public interest;

7 (E) A carrier by water to the extent that the carrier
8 enters into private contracts for towage,
9 salvage, hauling, or carriage between points
10 within the State; provided that the towing,
11 salvage, hauling, or carriage is not pursuant to
12 either an established schedule or an undertaking
13 to perform carriage services on behalf of the
14 public generally;

15 (F) A carrier by water, substantially engaged in
16 interstate or foreign commerce, that transports
17 passengers on luxury cruises between points
18 within the State or on luxury round-trip cruises
19 returning to the point of departure;

20 (G) Any person who:

21 (i) Controls, operates, or manages plants or
22 facilities for the production, transmission,

1 or furnishing of power primarily or entirely
2 from nonfossil fuel sources; and

3 (ii) Provides, sells, or transmits all of that
4 power, except as is used in its own internal
5 operations, directly to a public utility for
6 transmission to the public;

7 (H) A telecommunications provider only to the extent
8 determined by the public utilities commission
9 pursuant to section 269-16.9;

10 (I) Any person who controls, operates, or manages
11 plants or facilities developed pursuant to
12 chapter 167 for conveying, distributing, and
13 transmitting water for irrigation and other
14 purposes for public use and purpose;

15 (J) Any person who owns, controls, operates, or
16 manages plants or facilities for the reclamation
17 of wastewater; provided that:

18 (i) The services of the facility are provided
19 pursuant to a service contract between the
20 person and a state or county agency and at
21 least ten per cent of the wastewater
22 processed is used directly by the state or



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1 county agency that entered into the service
2 contract;

3 (ii) The primary function of the facility is the
4 processing of secondary treated wastewater
5 that has been produced by a municipal
6 wastewater treatment facility owned by a
7 state or county agency;

8 (iii) The facility does not make sales of water to
9 residential customers;

10 (iv) The facility may distribute and sell
11 recycled or reclaimed water to entities not
12 covered by a state or county service
13 contract; provided that, in the absence of
14 regulatory oversight and direct competition,
15 the distribution and sale of recycled or
16 reclaimed water shall be voluntary and its
17 pricing fair and reasonable. For purposes
18 of this subparagraph, "recycled water" and
19 "reclaimed water" means treated wastewater
20 that by design is intended or used for a
21 beneficial purpose; and



1 (v) The facility is not engaged, either directly
2 or indirectly, in the processing of food
3 wastes;

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

11 (L) Any person who owns, controls, operates, or
12 manages plants or facilities primarily used to
13 charge or discharge a vehicle battery that
14 provides power for vehicle propulsion; and

15 (M) Any person who:
16 (i) Owns, controls, operates, or manages a
17 renewable energy system that is located on a
18 customer's property; and

19 (ii) Provides, sells, or transmits the power
20 generated from that renewable energy system
21 to an electric utility or to the customer on
22 whose property the renewable energy system



1 is located; provided that, for purposes of
2 this clause, a customer's property shall
3 include all contiguous property owned or
4 leased by the customer without regard to
5 interruptions in contiguity caused by
6 easements, public thoroughfares,
7 transportation rights-of-way, and utility
8 rights-of-way.

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

19 SECTION 2. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Public Utilities; High-Voltage Electric Transmission Cable System

Description:

Includes a high-voltage electric transmission cable system for interisland transmission of electricity in the definition of "public utility", regardless of whether the electricity is generated using nonfossil fuels, provided that the PUC finds that regulation is in the public interest.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

