



GOV. MSG. NO. 1137

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 22, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

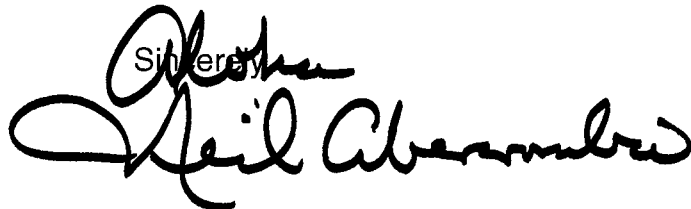
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 22, 2013, the following bill was signed into law:

SB120 SD1

RELATING TO PUBLIC UTILITIES
ACT 037 (13)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1 SECTION 1. The legislature finds that electricity rates in
2 the State are at record levels, due in large part to the high
3 cost of petroleum used to fuel electric generation plants on all
4 islands. In addition, electric utility operating expenses have
5 substantially increased in recent years while electric sales
6 have declined. The consequences of those circumstances have led
7 to further electricity rate increases. Electric ratepayers are
8 demanding immediate relief from increasing electricity rates.
9 It is therefore imperative that Hawaii's electric utilities
10 accelerate their efforts to acquire lower cost clean energy
11 resources and reduce existing energy and other utility operating
12 expenses.

13 The legislature further finds that as the electric utility
14 business model evolves, existing regulatory cost recovery
15 mechanisms neither provide sufficient economic incentives to
16 induce electric utilities to reduce energy and operating costs
17 nor financially reward them if these cost reductions are self-
18 initiated and substantial. For example, energy costs are



1 recovered from customers through the energy cost adjustment
2 clause, which is a direct cost recovery pass through mechanism,
3 without the ability for electric utilities to earn a profit or a
4 mark-up on energy cost recovery. Therefore, electric utilities
5 are not incentivized to aggressively reduce energy costs or seek
6 lower cost alternatives or efficiency gains.

7 The legislature additionally finds that the current
8 electric ratemaking process employs a single authorized rate of
9 return that is applied equally to all utility plant investments.
10 This methodology does not differentiate between plant
11 investments to modernize the electric grid, which should be
12 encouraged, and investments to preserve old, inefficient fossil
13 generation, which should be discouraged. Retiring old,
14 inefficient utility fossil generation acts as a financial
15 disincentive for electric utilities because the electric
16 utilities can only earn a return on plant investment that is
17 actually used and useful to provide utility service. The early
18 retirement of utility fossil generation may create costs that
19 are stranded and cannot be recovered from ratepayers. The
20 continued operation of old, inefficient utility fossil
21 generation therefore preserves existing utility financial
22 returns.



1 The legislature concludes that it is necessary for the
2 public utilities commission to consider and implement economic
3 incentive mechanisms, where appropriate, to induce electric
4 utility actions to reduce energy cost and operating expenses and
5 to enable the maximum integration of lower cost renewable energy
6 resources.

7 The purpose of this Act is to authorize the public
8 utilities commission to establish a policy to implement economic
9 incentives and cost recovery regulatory mechanisms, as necessary
10 and appropriate, to induce and accelerate electric utilities'
11 cost reduction efforts, encourage greater utilization of
12 renewable energy, accelerate the retirement of utility fossil
13 generation, and increase investments to modernize the State's
14 electrical grids.

15 SECTION 2. Section 269-6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§269-6 General powers and duties.** (a) The public
18 utilities commission shall have the general supervision
19 hereinafter set forth over all public utilities, and shall
20 perform the duties and exercise the powers imposed or conferred
21 upon it by this chapter. Included among the general powers of



1 the commission is the authority to adopt rules pursuant to
2 chapter 91 necessary for the purposes of this chapter.

3 (b) The public utilities commission shall consider the
4 need to reduce the State's reliance on fossil fuels through
5 energy efficiency and increased renewable energy generation in
6 exercising its authority and duties under this chapter. In
7 making determinations of the reasonableness of the costs of
8 utility system capital improvements and operations, the
9 commission shall explicitly consider, quantitatively or
10 qualitatively, the effect of the State's reliance on fossil
11 fuels on price volatility, export of funds for fuel imports,
12 fuel supply reliability risk, and greenhouse gas emissions. The
13 commission may determine that short-term costs or direct costs
14 that are higher than alternatives relying more heavily on fossil
15 fuels are reasonable, considering the impacts resulting from the
16 use of fossil fuels.

17 (c) In exercising its authority and duties under this
18 chapter, the public utilities commission shall consider the
19 costs and benefits of a diverse fossil fuel portfolio and of
20 maximizing the efficiency of all electric utility assets to
21 lower and stabilize the cost of electricity. Nothing in this
22 section shall subvert the obligation of electric utilities to



1 meet the renewable portfolio standards set forth in section
2 269-92.

3 (d) The public utilities commission, in carrying out its
4 responsibilities under this chapter, shall consider whether the
5 implementation of one or more of the following economic
6 incentives or cost recovery mechanisms would be in the public
7 interest:

8 (1) The establishment of a shared cost savings incentive
9 mechanism designed to induce a public utility to
10 reduce energy costs and operating costs and accelerate
11 the implementation of energy cost reduction practices;

12 (2) The establishment of a renewable energy curtailment
13 mitigation incentive mechanism to encourage public
14 utilities to implement curtailment mitigation
15 practices when lower cost renewable energy is
16 available but not utilized through the sharing of
17 energy cost savings between the public utility,
18 ratepayer, and affected renewable energy projects;

19 (3) The establishment of a stranded cost recovery
20 mechanism to encourage the accelerated retirement of
21 an electric utility fossil fuel electric generation
22 plant by allowing an electric utility to recover the



1 stranded costs created by early retirement of a fossil
2 generation plant; and

3 (4) The establishment of differentiated authorized rates
4 of return on common equity to encourage increased
5 utility investments in transmission and distribution
6 infrastructure, discourage an electric utility
7 investment in fossil fuel electric generation plants
8 to incentivize grid modernization, and disincentivize
9 fossil generation, respectively.

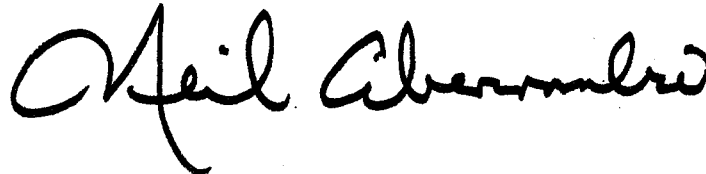
10 [~~d~~] (e) The chairperson of the commission may appoint a
11 hearings officer, who shall not be subject to chapter 76, to
12 hear and recommend decisions in any proceeding before it other
13 than a proceeding involving the rates or any other matters
14 covered in the tariffs filed by the public utilities. The
15 hearings officer shall have the power to take testimony, make
16 findings of fact and conclusions of law, and recommend a
17 decision; provided that the findings of fact, the conclusions of
18 law, and the recommended decision shall be reviewed and may be
19 approved by the commission after notice to the parties and an
20 opportunity to be heard. The hearings officer shall have all of
21 the above powers conferred upon the public utilities commission
22 under section 269-10."



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.
4

APPROVED this 22 day of APR, 2013

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a large, looping initial "N".

GOVERNOR OF THE STATE OF HAWAII