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TO THE HOUSE COMMITTEE  
ON ENERGY AND ENVIRONMENTAL PROTECTION

THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

TUESDAY, FEBRUARY 12, 2013  
8:30 A.M.

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

HOUSE BILL NO. 1405 - RELATING TO THE PUBLIC UTILITIES COMMISSION

DESCRIPTION:

This measure proposes to require the Public Utilities Commission ("PUC") to publish contracts, including price information, for the purchase of renewable energy by energy utilities on a publicly-accessible portion of the commission's website, with certain exceptions.

POSITION:

The Division of Consumer Advocacy (Consumer Advocate) supports the intent of the bill and offers the following comments and reservations.

COMMENTS:

The Consumer Advocate understands the consumers' desire to know the exact amount for which they are paying for each power purchase agreement (PPA) for renewable energy entered into by the electric utilities. On the other hand, the

House Bill No. 1405  
House Committee on Energy and Environmental Protection  
Tuesday, February 12, 2013, 8:30 a.m.  
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Consumer Advocate must weigh the consumers' desire to know against any potential consequences that may be detrimental to the consumers' interest in having the lowest possible PPA prices that are just and reasonable.

Currently, the PUC publishes price information for wind and solar photovoltaic PPAs on the PUC's document management system (DMS). The Hawaiian Electric Companies (HECO, MECO, and HELCO) similarly provide this information for these renewable energy technologies upon filing their application for approval of the PPA. Thus, the practice of making public pricing information for wind and solar photovoltaic PPAs is already in place pursuant to a PUC order.

Where new technologies are concerned, however, the publication of price information for one PPA may set a price floor for subsequent PPAs for a project utilizing the same or similar technology. The Consumer Advocate would like to see PPAs that are priced at cost plus a reasonable profit margin. As technologies mature or material costs decrease, this should result in costs and therefore PPA pricing to decrease. If a subsequent independent power producer (IPP) does not know the price of a previously approved PPA, then the subsequent IPP may be more likely to price its contract close to its actual cost, rather than the exact amount or slightly lower than the previously approved PPA, if pricing information for that PPA were to be made publicly available.

Therefore, the Consumer Advocate recommends that the current practice of allowing the PUC to determine whether PPA pricing information should be made publicly available should be allowed to continue without a statutory mandate.

Thank you for this opportunity to testify.

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

FEBRUARY 12, 2013  
8:30 a.m.

**MEASURE:** H.B. No. 1405

**TITLE:** Relating to the Public Utilities Commission

Chair Lee and Members of the Committee:

**DESCRIPTION:**

This measure would require the Public Utilities Commission (“Commission”) to make available power purchase contracts for renewable energy, including purchase price information, by publishing those contracts on a publicly-accessible portion of the Commission’s website. Contracts not yet receiving final approval or disposition by the Commission may be published with confidential material redacted, whereas contracts receiving a final decision by the Commission “shall be published in [their] entirety.”

**POSITION:**

The Commission supports the intent of this measure to make the process of reviewing power purchase contract information, particularly cost information, more transparent. However, the Commission cannot support the measure as written, and wishes to suggest an alternative approach which may be more conducive in terms of the type of information being sought.

**COMMENTS:**

All Commission records – including power purchase contracts and related information – are already publicly accessible through its Document Management System (“DMS”).<sup>1</sup>

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<sup>1</sup>To access the Commission’s publicly-accessible DMS database, please visit <http://dms.puc.hawaii.gov/dms/>.

Confidential and proprietary information filed under a protective order with the Commission is redacted from the publicly-available portions of documents. While it is an important goal of the Commission to make the regulatory process more transparent and available to all interested parties, its DMS is not very user-friendly and can be difficult to navigate for someone not familiar with Commission proceedings. It will take Commission time and resources to extrapolate information from these contracts and other reporting documents to present the price information in a meaningful way for the general public. Therefore, to help minimize the impact on the Commission's resources, the Commission suggests that its Annual Report include summary information on all power purchase agreements in effect during the fiscal period of the Annual Report. Should someone want the complete contract, it would be available on DSM. The Annual Report is available on the Commission's website and is a repository for a wide range of analytical and comparative data presented in easy to understand format.

The Commission offers the following amendment:

**§269-5 Annual report and register of orders.** The public utilities commission shall prepare and present to the governor, through the director of finance, in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; a summary of power purchase agreements in effect during the fiscal year; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission's recommendations respecting legislation and other matters requiring executive and legislative

consideration. Copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders and decisions, which shall be open and readily available for public inspection, and no order or decision of the commission shall take effect until it is filed and recorded in this register.

[New material underlined.]

Thank you for the opportunity to testify on this measure.

**Testimony before the  
House Committee on Energy and Environmental Protection**

**H.B. 1405-- Relating to the Public Utilities Commission**

**Tuesday, February 12, 2013  
8:30 am, Conference Room 2325**

**By Barry Nakamoto  
Manager, Renewable Acquisition Department  
Hawaiian Electric Company, Inc.**

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

My name is Barry Nakamoto. I am the Manager of the Renewable Acquisition Department at Hawaiian Electric Company. I am testifying on behalf of Hawaiian Electric Company and its subsidiary utilities, Maui Electric Company and Hawaii Electric Light Company.

Hawaiian Electric appreciates the intent of H.B.1405, but offers that this bill is unnecessary. Purchase Power Agreements, including pricing, negotiated between the Hawaiian Electric Companies and Independent Power Producers are submitted to the Hawaii Public Utilities Commission for approval and are made available for public inspection on the Commission's website. In some situations, there may be confidential information filed under a protective order with the Commission and are redacted from the publicly available documents.

The Hawaiian Electric Companies also supports the Public Utilities Commission proposal in their testimony submitted on S.B. 64 to include summary information on all of the power purchase agreements in their Annual Report which is available on the Commission's website.

Thank you for the opportunity to testify.



# Sierra Club

## Hawai'i Chapter

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808.538.6616 [hawaii.chapter@sierraclub.org](mailto:hawaii.chapter@sierraclub.org)

### HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 12, 2013, 8:30 A.M.  
(Testimony is 1 page long)

### TESTIMONY IN SUPPORT OF HB 1405

Aloha Chair Lee and members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* HB 1405. The bill would require publication of power purchase agreements, thus allowing ratepayers to know the terms by which their electrical prices are set.

Transparency ensures greater competition, greater accountability, and the ability to ensure smart decisions are being made. Publishing documents that dictate how millions of dollars of ratepayer funds are spent is not just smart policy, but a core principle of a democratic society.

Mahalo for the opportunity to testify.



# LIFE OF THE LAND

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## COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Chris Lee, Chair

Rep. Cynthia Thielen, Vice Chair

DATE: Tuesday, February 12, 2013

TIME: 8:30 AM

PLACE: Conference Room 325

HB 1405 RELATING TO PUBLIC UTILITIES

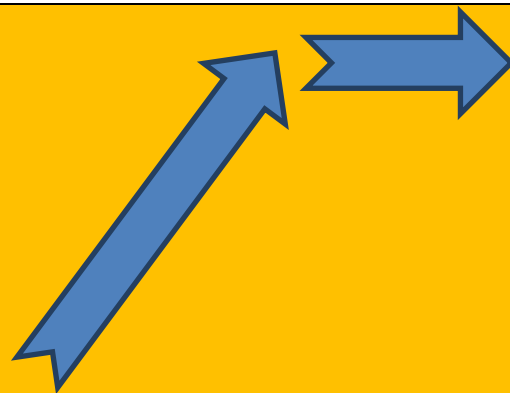
**SUPPORT**

Aloha Chair Lee, Vice Chair Thielen and Members of the Committee,

Life of the Land is Hawai`i's own community action group advocating for the people and the land since 1970. Our mission is to preserve and protect the life of the land by promoting sustainable land use, promote open government through research, education, advocacy, and when necessary, litigation.

The HCEI Agreement states that prices will do this →

We are somewhere on the rising part, where rates go up, up and further up.





HECO is willing to release some wind and solar costs but not biofuel costs.

Biofuels were developed in the 1800s. The Model T could run on biofuel. Why the secrecy now?

Because some biofuel contracts make sense and some make dollars.

The utility does not want the public to be able to distinguish between the two.

The utility does not want to explain why they are making deals with speculators at the expense of the ratepayer.

PUC Chairs Caliboso (2003-2011) and Morita (2011-) were willing to release the data after the Contract was approved but HECO was adamant.

**HECO SAID: NO, NO & NO**

Please pass this bill

Mahalo

Henry Curtis  
Executive Director



**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**

February 12, 2013, 8:30 A.M.

Room 325

**(Testimony is 2 pages long)**

**TESTIMONY IN SUPPORT OF HB 1405**

Chair Lee, Vice-Chair Thielen, and members of the Committee:

The Blue Planet Foundation **supports** HB 1405, to increase transparency in power purchase contracts. However, **we request that the bill be amended** to promote transparency for *all* power purchase agreements, rather than just to agreements for the purchase of energy from non-fossil fuel sources.

Public energy utilities in Hawai'i are a regulated monopoly. Thus, utilities enjoy gain no competitive advantage from keeping their costs proprietary, and the public has an important interest in disclosure of those costs. As a result, there is no justifiable reason for power purchase agreements to remain hidden from the rate-paying public. Indeed, increased market transparency will allow our energy market to operate more efficiently, leading to fairer opportunities for power producers, and leading to better rates for consumers. For this reason, Blue Planet supports HB 1405.

However, we believe that power purchase agreements should be transparent irrespective of whether they are for the purchase of clean power, or whether they relate to the existing agreements for fossil fuel-generated power. Thus, we request one amendment to extend the operation of HB 1405 to fossil fuel power purchase agreements:

(c)...

The commission shall publish all contracts for the purchase of ~~nonfossil fuel generated~~ energy by a public utility on a publicly-accessible portion of the commission's website; provided that all contracts shall include the purchase

**Jeff Mikulina, executive director • [jeff@blueplanetfoundation.org](mailto:jeff@blueplanetfoundation.org)**

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price of energy expressed as cost per kilowatt hour as approved or determined by the commission. All contracts shall be published upon filing of the contract with the commission; provided that a contract may be published at the time of filing with certain proprietary information redacted; provided further that upon a final approval or determination of the commission, the contract shall be published in its entirety. All contracts for the purchase of power previously approved by the commission shall also be published on a publicly-accessible portion of the commission's website.