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TO THE HOUSE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

THURSDAY, JANUARY 30, 2014
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. 1999 - RELATING TO ELECTRIC UTILITIES

DESCRIPTION:

This measure seeks to establish stringent licensing procedures for any person intending to construct, operate, acquire an electric utility or extend an existing electric utility outside its designated area.

POSITION:

The Division of Consumer Advocacy opposes H.B. No. 1999 and offers the following comments.

COMMENTS:

Hawaii Revised Statutes ("HRS") § 269-7.5 already provides for an established application process that is the subject of the Public Utilities Commission's ("Commission") review in a quasi-judicial forum. A Commission-approved issuance of

an application for certificates of public convenience and necessity (“CPCN”), is required for any applicant intending to commence business as a public utility.

A requirement to have the Commission issue an electric utility license creates the potential for inconsistency with HRS § 269-7.5. It is not clear whether the resulting license would be granted in lieu of a CPCN or in conjunction with receiving approval to obtain a CPCN. Also, unlike the CPCN procedures, while the Commission retains the discretion to approve or disapprove the application or proposal, there are no provisions in this measure that addresses whether any resultant electric utility license may be amended, suspended, or revoked for cause.

Furthermore, there appears to be an inconsistency within the measure. First, in “SECTION 1” the language establishes a licensing requirement “for electric utilities that seek to operate monopolies in the State.” In contrast, “SECTION 2.” of the measure provides that “[t]he electric utility license shall be nonexclusive,....”

Thank you for this opportunity to testify.

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENT**

H.B. No. 1999

Relating to Electric Utilities

Thursday, January 30, 2014

8:30 am

State Capitol, Conference Room 325

Kevin M. Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

Chair Lee and Members of the Committee:

My name is Kevin Katsura and I am testifying on behalf of Hawaiian Electric Company and its subsidiary utilities Maui Electric Company and Hawai'i Electric Light Company in opposition to H.B. 1999.

This bill requires that every person who constructs, operates, or acquires an electric utility, or extend an existing electric utility outside of its service area must first obtain an electric utility license issued by the Hawaii Public Utilities Commission ("PUC").

The licensing requirement in this bill appears duplicative of the certificate of public convenience and necessity ("CPCN") process already in place. There already is a certification process whereby a utility must obtain a certificate of public convenience and necessity ("CPCN") under HRS 269-7.5, where similar findings are made.

In CPCN proceedings, the issues under 269-7.5 are: (1) whether the applicant is fit, willing and able to properly perform the proposed service and to conform to the terms, conditions, and rules adopted by the PUC; and (2) whether the proposed service is or will be required by the present or future public convenience and necessity.

This bill could require the Hawaiian Electric Companies to cease operations and stop servicing their current customers until a license could be obtained by the PUC which would harm all current customers. Accordingly, the Hawaiian Electric Companies oppose H.B. 1999.

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

JANUARY 30, 2014
8:30 a.m.

MEASURE: H.B. No. 1999
TITLE: Relating to Electric Utilities

Chair Lee and Members of the Committee:

DESCRIPTION:

This measure adds a new part to Chapter 269, Hawaii Revised Statutes, which would require all electric utilities to obtain a license from the Public Utilities Commission ("Commission") to operate in the State. The measure sets forth, among other things, the fee, the application requirements, the public hearing and notice requirements, and the criteria for issuance of an electric utility license.

POSITION:

The Commission has concerns with this measure and would like to offer the following comments for the Committee's consideration.

COMMENTS:

H.B. No. 1999 is not clear on how a new electric utility licensing process would relate to the existing utility franchise process. The Commission has concerns that the creation of a separate licensing process for electric utilities at the regulatory level may raise constitutional issues or may be in violation of existing franchise agreements established between the State and individual electric utility companies.

However, H.B. No. 1999 does raise significant issues related to Hawaii's current electricity service model under the traditional regulatory compact between established utilities and electricity ratepayers as regulated by the State.

Hawaii's electric utility service sector and associated regulatory model are both part of an operating environment that has undergone sweeping change in recent years. The change in this operating environment has led to a number of issues including an apparent disconnect between the traditional role of the electric utilities and the needs of the public. The Commission appreciates the Legislature's recognition of these issues and agrees that discourse on potential solutions is warranted. However, in order to truly ensure that Hawaii's electric utility systems evolve to prudently meet the public's current and anticipated needs, the Commission must consider the transformation of the entire system, not just a licensing process.

Hawaii's current electric utility model evolved pursuant to what is known as the traditional regulatory compact. Under this arrangement electric utilities are granted a franchise by the Legislature and are provided the opportunity to earn a reasonable return on capital in exchange for an obligation to commit the necessary capital to serve all comers. In other words, the franchised utility is made responsible for providing all aspects of electric service, including generation, transmission, and distribution for the public good, while the customer who used those services would pay the utility for those services. Under this compact, the customers purchased all, or a major portion of, their electricity needs directly from the utilities.

Today, the proliferation of distributed generation, independent power producers, and other advancements in the energy sector have led to a far more complicated electric system. While the majority of customers remain completely reliant on the electric utilities for electrical service, a growing number of customers are capable of generating their own electricity. However, due to the intermittent nature of the prevalent technology used by customer-generators, these customers generate electricity to be used on-site or can send excess power back to the grid but also take standard electric service from the grid in varying degrees especially when unable to generate electricity. Furthermore, various policies adopted by our State have led to the incorporation of greater amounts of energy, both fossil and renewable resources, supplied by independent power producers who sell generated power to the electric utility who, in turn, use that power to supply electricity to their customers. Therefore, the traditional regulatory compact does not encapsulate the range of relationships that today's electric system incorporates. In light of the changing landscape and complexity of the modern electric system, the Commission believes that a review of the fundamental electric utility-customer relationship is warranted.

The Commission notes that the electric utilities' current franchises are modifiable and revocable by the Legislature. Therefore, if the Legislature finds that the public good is best served by expanding customer energy options as part of electric utilities' operational requirements, then these types of changes can be encompassed in the franchise. The Commission respectfully suggests that the Legislature can pursue a legislative level investigation on whether changes to the franchise are necessary given this rapidly evolving electricity environment.

Thank you for the opportunity to testify on this measure.



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

January 30, 2014, 8:30 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1999

Aloha Chair Lee and Members of the Committees:

The Sierra Club, Hawaii Chapter, with over 12,000 dues paying members and supporters statewide, ***supports*** HB 1999. This measure requires to the PUC to issue licenses for electrical utilities to operate.

We note that the rise of distributed renewable energy is causing a national discussion about the future of the utility business model. While we firmly believe there is a role for an electrical utility in Hawai'i's future, the business model of yesterday may no longer work for tomorrow. This measure gives the PUC the opportunity to reexamine the utility business structure and longterm plan and ascertain if there may be better entities that can serve the needs of Hawai'i's residents.

The utility model is a regulatory compact. If our existing utilities are not adequately serving Hawai'i's customers, this legislature has an obligation to pursue other options.

Mahalo for the opportunity to testify.