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TO THE HOUSE COMMITTEE
ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

MONDAY, FEBRUARY 25, 2013
2:30 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR, AND MEMBERS
OF THE COMMITTEE

HOUSE BILL NO. 813 - RELATING TO ELECTRICITY PRODUCERS

DESCRIPTION:

This measure proposes to authorize the Public Utilities Commission ("PUC") to examine all documents and other information and data deemed necessary for the review of purchase power agreements before the Commission, including financial records, projections, costs reports, and other material of third-party electricity producers seeking to sell power to a public utility under a power purchase agreement.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") strongly supports H.B. No. 813 and offers the following comments.

COMMENTS:

In recent years, the cost to produce solar photovoltaic panels and wind turbines has decreased significantly. Furthermore, as the technology for these renewable energy devices has improved, so have their relative capacity factors. On the mainland, power purchase agreement (“PPA”) prices for solar and wind projects have declined as production costs decreased and efficiencies increased. The State of Hawaii, on the other hand, has not seen a similar decrease in PPA prices for wind and solar projects.

For every application for the approval of a PPA, the Consumer Advocate requests actual cost data from the independent power producers (“IPP”) through the electric utility to determine if the price per kwh is just, reasonable, and in consumers’ best interest. Thus far, IPPs have not provided this data, but instead provide pro forma financial information, which reflect assumptions and projections, not actual costs. The Consumer Advocate finds these pro formas to be less than adequate in the Consumer Advocate’s ability to determine the reasonableness of PPA pricing.

The Consumer Advocate believes that this measure will provide access to the documentation that will help to facilitate the review of assessing the reasonableness of PPA pricing and will maximize the ability to assess that ratepayers receive the benefits of renewable energy projects. As shown below, PPA prices have been relatively steady and have not reflected the decreases in material cost in recent years.

Date of Application	Developer	Capacity	Energy Price
9/20/2010	Kapaa Solar LLC	1MW	\$200/MWh
104/2010	Kaheawa Wind Power II, LLC	21MW with BESS	The payment rate in Year 1 is \$228/MWh for the first 42 GWh, \$176/MWh for energy in excess of 42 GWh up to 62 GWh, and \$50/MWh in energy in excess of 62 GWh. The rates escalate at 1.5% per calendar year beginning with the Year 2 price and ending with the Year 11 price. Pricing for Years 12 through 20 will escalate at 0.5% per calendar year.

Date of Application	Developer	Capacity	Energy Price
1/19/2011	IC Sunshine LLC	5MW	If the 24.5% refundable state tax credit is taken, the price at Year 1 is \$210/MWh escalating to \$258.67/MWh in Year 15 and then ending at \$200/MWh between Years 16 through 20. If the 35% state tax credit is taken, the price of the agreement at Year 1 is \$177.50/MWh, escalating to \$218.64/MWh in Year 15 and then ending at \$167.50/MWh between Years 16 through 20.
3/9/2011	Kalaeloa Solar Two, LLC	5MW	If the 24.5% refundable state tax credit is taken, the price at Year 1 is \$191.14/MWh escalating to \$264.58/MWh in Year 12 and then ending at \$211.84/MWh between Years 13 through 20. If the 35% state tax credit is taken, the price at Year 1 is \$151.14/MWh, escalating to \$224.58/MWh in Year 12 and then ending at \$171.84/MWh between Years 13 through 20.
3/17/2011	Auwahi Wind Energy LLC	21MW with BESS	In Year 1, the price is \$200/MWh for the 1st 83 GWh of energy delivered in a calendar year and \$50.75/MWh for the remaining GWh of energy delivered during the calendar year. The rate escalates ending at Year 20 with a price of \$269.37/MWh for the 1st 83 GWh of energy delivered in the calendar year and \$68.35/MWh for the remaining GWh of energy delivered in the calendar year.
8/5/2011	McBryde Sugar Company, Limited	6MW	\$200/MWh
8/12/2011	Forest City Sustainable Resources Oahu, LLC	1MW	With the 24.5% refundable state tax credit, the price is \$236/MWh.

Date of Application	Developer	Capacity	Energy Price
9/23/2011	Kawailoa Wind LLC	69MW	Price at Year 1 is \$205.40/MWh escalating 1.5% annually for the 20-year term of the contract.
11/28/2011	MP2 Hawaii Solar I, LLC	300kW	\$200/MWh
12/21/2011	Kalaeloa Renewable Energy Park LLC	5MW	\$197/MWh or \$216/MWh depending on whether the 35% or 24.5% state tax credit is taken, respectively

These PPA prices for Hawaii solar and wind projects may seem reasonable, because they are all priced at or near 20 cents per kwh. However, when compared to mainland prices, the Consumer Advocate questions whether Hawaii's higher PPA prices can be attributed completely to the higher cost of doing business in this State.

In August, 2012, the United States Department of Energy published a report done by Lawrence Berkeley National Laboratory entitled, "2011 Wind Technologies Market Report." The report stated that, "the capacity-weighted average 2011 sales prices, based on projects in the sample built in 2011, was roughly \$74/MWh" (\$0.074 per kwh). Similarly, a solar project PPA entered into in 2012 in California was submitted to the California Public Utilities Commission for approval priced at less than \$0.10 per kwh.

The Consumer Advocate believes that this bill, which would give the PUC and the Consumer Advocate the ability to review the actual cost data for IPPs, would better enable regulators to determine if PPA pricing for renewable energy projects are just, reasonable, and in the consumers' best interest. Moreover, the PUC and the Consumer Advocate will be able to determine what is causing the disparity in PPA prices for renewable energy projects in Hawaii compared to the mainland.

Thus, the Consumer Advocate strongly supports this measure. The Consumer Advocate makes one recommendation that in addition to the PUC, the Consumer Advocate's office be included specifically in the measure.

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 CONSUMER PROTECTION & COMMERCE

FEBRUARY 25, 2013
2:30 p.m.

MEASURE: H.B. No. 813
TITLE: Relating to Electricity Producers

Chair McKelvey and Members of the Committee:

DESCRIPTION:

This measure would authorize the Public Utilities Commission (“Commission”) to examine all information relating to power purchase agreements (“PPA”) under review by the Commission, which includes the examination of PPA-relevant cost information of independent power producers (“IPP”).

POSITION:

The Commission strongly supports this measure and would like to offer the following comments for the Committee’s consideration.

COMMENTS:

This bill will provide the Commission with the means to obtain full and complete information from all parties to PPAs submitted to the Commission for review and approval. Although the Commission currently has general supervisory authority over public utilities under Chapter 269, Hawaii Revised Statutes, which allows the Commission to compel necessary information from regulated utilities, information from non-regulated entities may not be as readily available for the Commission’s review.

To ensure the protection of a non-utility’s confidential information, included in this bill are provisions requiring the Commission to maintain the confidentiality of information submitted under confidential seal.

Thank you for the opportunity to testify on this measure.

**Testimony before the
House Committee on
Consumer Protection and Commerce**

H.B. 813 -- Relating to Electricity Producers

**Monday, February 25, 2013
2:30 pm, Conference Room 325**

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

Chair McKelvey, Vice-Chair Kawakami 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 (HECO) and its subsidiary utilities, Maui Electric Company (MECO) and Hawaii Electric Light Company (HELCO).

Hawaiian Electric supports H.B. 813 which would authorize the Public Utilities Commission to examine all documents and other information and data deemed necessary for the review of power purchase agreements before the Commission, including financial records, projections, cost reports, and other material of third-party electricity producers seeking to sell power to a public utility under a power purchase agreement.

Providing complete access to underlying renewable energy project cost information would allow for a better determination of the reasonableness of proposed prices from independent power producers' projects. We believe that ultimately, this will be helpful in obtaining better pricing for our customers.

Thank you for the opportunity to testify.



Directors

Jody Allione
AES-Solar

Joe Boivin
The Gas Company

Kelly King
Pacific Biodiesel

Warren S. Bollmeier II
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

HB 813, RELATING TO ENERGY

February 23, 2013

Chair McElvey, Vice-Chair Kawakami, and members of the Committee I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically- sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of HB 813 is to authorize the Public Utilities Commission to examine all underlying renewable energy project cost information, including financial records, projections, cost reports, and other material of third-party electricity producers seeking to sell power to a public utility under a power purchase agreement.

HREA **opposes** this measure:

- 1) The Role of Independent Power Producers (“IPPs”). In 1978 the Public Utility Regulatory Policy Act (“PURPA”) was established by the U. S. Congress to encourage non-utility innovation in alternate energy sources for electricity, including renewables and co-generation. Since then, we believe IPPs have brought significant net benefits to consumers in Hawaii and the mainland in developing renewable energy projects. Overall, we believe IPPs are successful because IPPs are forced to compete with other IPPs and they are able to take calculated risks that utilities typically can’t or won’t take, and thus are more likely to innovate and reduce costs.
- 2) This Measure Effectively Proposes to Move Towards Regulation of IPPs. We believe this measure is the first step in the direction of regulating IPPs. Under Hawaii Revised Statutes Chapter 269, IPPs are not regulated as public utilities, unlike electric public utilities like Hawaiian Electric Company, Inc. Giving direct statutory authority to the Commission to require IPPs to provide financial, cost and other project information as proposed in this measure would begin to enable and authorize the Commission to regulate IPPs the same way the Commission regulates public utilities, by regulating the IPPs’ costs, expenses, investments and allowed rate of return. Imposing this type of reporting requirements, financial and cost disclosures, and implied regulation on competitive IPPs would have a chilling effect on IPPs because of the administrative and regulatory burdens that would be placed on IPPs. This would provide a dis-incentive for IPPs to do business in Hawaii - further degrading Hawaii’s business climate. There would be less IPPs willing to do business and compete in the renewable energy market in Hawaii. Clearly, this is a key policy decision for the legislature to make and we believe the negative consequences of requiring confidential and proprietary financial and cost information from private IPPs as proposed in this measure should be avoided.

- 3) Additional Impacts of the Proposed Measure. The primary additional impact of this measure would be to create more uncertainty and risk to developers and their financial partners. There would also be a risk that confidential proprietary information could be discovered by competitors of the IPP, which would not benefit consumers, because it would harm the competitive market in which the IPPs compete. Thus, we believe many investors will look elsewhere. Increased uncertainty and risk, and reduced competition by private IPPs in the renewable energy market will eventually result in higher prices to consumers for renewable energy. This measure would obviously put a damper on the further development of renewables in Hawaii.
- 4) Proposed Alternative Approach. Clearly, it is the PUC's job to determine whether a PPA offer, submitted by the utility, is reasonable, including the proposed payment offer from an IPP. We agree that the PUC would benefit by having access to confidential detailed project costs, energy output and financial factors associated with a specific project, in order to do its evaluation and assessment. But do data and information sufficient to conduct their analysis need to from the project owner?

We believe there is a good alternative that would help preserve competition in the market, and would at the same time allow the PUC to evaluate and better assess PPA offers: Specifically, we propose that the PUC hire a consultant to provide the PUC with:

- a) an appropriate computer model, if needed, for evaluating and assessing PPA offers,
 - b) detailed data and information on typical costs to develop, construct and operate renewable projects successfully in Hawaii. These data and information, in turn, can be used as inputs to the model, and
 - c) training of PUC staff on the model, including evaluation of specific PPA offers.
- 5) Recommendations. In summary, we opposed this measure as written, as we believe it is not needed, and if implemented, will cause harm to the renewable business in Hawaii. That, in turn, will dampen our ability to meet our clean energy goals. Furthermore, we believe the PUC already has the authority to implement our proposed alternative approach, and thus we do not believe this bill is actually needed, unless additional funding authority is required. Therefore, we recommend that you hold this measure.

Mahalo for this opportunity to testify.

CPC 325 Feb 25, 2013 2:30 PM

RE: HB813

Position: strong support

Representing: Puna Pono Alliance

Aloha Chairman Angus L.K. McKelvey, Vice Chair Derek S.K. Kawakami, and committee members

When HECO, MECO & HELCO sign contracts with independant power producers, such as Aina Koa Pono, Pattern Energy, PGV or First Wind.

The utility asks the Public Utilities Commission to approve the contract.

As we are all aware Hawaii has some of, if not the highest

electrical rates in the nation. At the present time renewable energy companies are not parties to the PUC proceedings. At this time profit margins for these companies remain a secret, there is no transparency of the financial margins to protect consumers and ratepayers.

HB813 would allow the PUC to review financial records, for independent power producers to regulate potential windfall profits circumstances that may arise that would come at ratepayer expense.

Thank you for your consideration, please vote for HB813

Robert Petricci

President Puna Pono Alliance

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 22, 2013 5:55 AM
To: CPCtestimony
Cc: friendsoflana'i@gmail.com
Subject: Submitted testimony for HB813 on Feb 25, 2013 14:30PM

HB813

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Friends of Lana'i	Friends of Lana'i	Support	No

Comments: Power Purchase Agreements play a major role in setting rates for utility customers. Allowing the PUC to review financial records of all the players in (and behind) a PPA is good public policy. We support this bill. It would be much stronger, however, if the resulting PPA's were made public. Too often, much of the PPA is redacted for "confidentiality." PPA's should be open to more than PUC review; they should be publicly accessible as well. But short of that, this bill at least allows the PUC to dig further into the financial underpinnings of the PPA players. We support this effort.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 21, 2013 4:46 PM
To: CPCtestimony
Cc: toolohana@hawaiiantel.net
Subject: Submitted testimony for HB813 on Feb 25, 2013 14:30PM

HB813

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Laurence Tool	Individual	Support	No

Comments: Aloha Honorable Committee Members, I support this bill, as I support all efforts to strengthen our PUC in its ongoing efforts to audit, monitor and regulate our runaway monopoly utility. Since our PUC lacks the resources for independent investigation, it is critical that it have the right of full access to all utility records, contracts and data related to power production, power purchase, and distribution. I strongly urge you to pass this legislation. Mahalo for your attention.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 21, 2013 5:25 PM
To: CPCtestimony
Cc: jtt.hew@gmail.com
Subject: Submitted testimony for HB813 on Feb 25, 2013 14:30PM

HB813

Submitted on: 2/21/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Janeel Hew	Individual	Support	No

Comments: Greetings, Thank you for your consideration on this bill. I stand in support of HB813. It is crucial to have access to all information covered under this bill. I strongly urge you to pass HB813. Thank you in advance, Janeel Hew

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 22, 2013 5:50 AM
To: CPCtestimony
Cc: rkaye@md.net
Subject: Submitted testimony for HB813 on Feb 25, 2013 14:30PM

HB813

Submitted on: 2/22/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robin Kaye	Individual	Support	No

Comments: This bill doesn't go nearly far enough, but it does make the effort to open up the dark doors of power purchase agreements. SB 1043 would at least provide the PUC with the ability to see more of the power producer's financial information. PPA's should be transparent, (as should much more of the work done at the PUC), yet much of their content is redacted from public view. PPA's set the costs for ratepayers who should be able to know more about the financial underpinnings of those rates. This bill would help in the opening of this closed door.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 23, 2013 12:15 PM
To: CPCtestimony
Cc: LynnByBay@aol.com
Subject: Submitted testimony for HB813 on Feb 25, 2013 14:30PM

HB813

Submitted on: 2/23/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Hamilton	Individual	Support	No

Comments: The PUC needs to be able to review financial records to make informed decisions!!!

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 23, 2013 5:15 PM
To: CPCtestimony
Cc: bill@puna.us
Subject: Submitted testimony for HB813 on Feb 25, 2013 14:30PM

HB813

Submitted on: 2/23/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Smith	Individual	Support	No

Comments: please support HB813

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 23, 2013 9:11 PM
To: CPCtestimony
Cc: suzanne@punapono.com
Subject: *Submitted testimony for HB813 on Feb 25, 2013 14:30PM*

HB813

Submitted on: 2/23/2013

Testimony for CPC on Feb 25, 2013 14:30PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Wakelin	Individual	Support	No

Comments:

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