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SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

March 19, 9:15 A.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO HB 815, SUGGESTED AMENDMENTS

Chair Baker, Vice Chair Galuteria, and members of the committee,

The Blue Planet Foundation opposes HB 815 HD1 as currently written, because it *weakens* ratepayer protections and *reduces* ratepayer benefits. We suggest amendments to ensure that appropriate safeguards remain in place.

This measure allows the Public Utilities Commission (PUC) to exempt an electric cooperative from Commission oversight and electric utility statutes, including Hawaii's renewable portfolio standards, energy efficiency portfolio standards, net energy metering, electricity reliability standards, solar water heater standards, and other policies guiding energy production and delivery. While we fully expect any member-owned electric cooperative in Hawaii to comply with our existing clean energy standards and rules, we must oppose this ceding of energy policy from the legislature to an electric cooperative.

Blue Planet fully recognizes the benefits of a cooperative ownership model for an electric utility. We applaud Kauai Island Utility Cooperative's (KIUC) efforts to aggressively add renewable energy to Kauai and modernize their utility grid. We believe that KIUC will continue these efforts.

In some areas, however, it is clear that state utility policy benefits customers, regardless of the utility organization type. For example, in one of the few areas where KIUC was exempted by the PUC from HRS 269—energy efficiency via the Public Benefit Fee Administrator (PBFA)—KIUC is currently lagging. On a per customer basis, electricity consumption has been declining more slowly on Kauai over the past six years than on all other islands that the PUC choose to include in the PBFA program. We must wonder if this would have been the case if the PUC included KIUC in the PBFA efficiency program.

Blue Planet **supports** reducing any unnecessary regulatory burden on the KIUC, particularly those PUC dockets where the KIUC is a party by default but their participation is not required.

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But utility policies regarding clean energy should apply to all utilities in Hawaii. The legislature should not cede state clean energy policy decision making to the PUC or an electric cooperative regarding renewable portfolio standards, energy efficiency portfolio standards, net energy metering, solar water heater system standards, and other clean energy policies.

At a minimum, Blue Planet respectfully asks that HB 815 HD1 be amended to require that electric cooperatives comply with all state statutes regarding renewable energy, energy efficiency, and reliability standards and interconnection. Therefore, Blue Planet proposes the following amendment to the existing new language in HB 815, starting at page 4, line 3:

(b) Notwithstanding any provision of this chapter or any franchise, charter, law, decision, order, or rule to the contrary, the public utilities commission, sua sponte or upon the application of an electric cooperative, may waive or exempt an electric cooperative from any or all requirements of this chapter or any applicable franchise, charter, decision, order, rule, or other law upon a determination or demonstration that such requirement or requirements should not be applied to an electric cooperative or are otherwise unjust, unreasonable, or not in the public interest. The commission may not waive or exempt an electric cooperative from sections 269-16.4, 269-27.2, 269-27.5, 269-27.6, 269-32, 269-33, 269-44, 269-45, 269-71, 269-91, 269-92, 269-93, 269-94, 269-95, 269-96, 269-101, 269-101.5, 269-102, 269-103, 269-104, 269-105, 269-106, 269-107, 269-108, 269-109, 269-110, 269-111, 269-121, 269-122, 269-123, 269-124, 269-125, 269-141, 269-142, 269-143, 269-144, 269-145, 269-146, 269-147, 269-148, 269-149, nor may the commission waive or exempt an electric cooperative from any charter, decision, order, rule, or other law regarding renewable energy, energy efficiency, interconnection standards, or electric reliability standards.

(c) Notwithstanding the provisions in subsections (a) and (b), the public utilities commission and the consumer advocate shall at all times consider the ownership structure and interests of an electric cooperative in determining the scope and need for any regulatory oversight or requirements over such electric cooperative.

Thank you for this opportunity to testify.

18 March 2013

Senate Committee on Commerce and Consumer Protection
Honorable Senator Rosalyn Baker, Chair and Members of the
Committee

Subject: HB 815 HD 2, Relating to electric cooperatives

Bill summary:

HB 815 would require the Public Utilities Commission (PUC) and the Consumer Advocate to consider the ownership structure and interests of electric cooperatives in exercising their regulatory function. This is because such cooperatives are non-profit and member-owned, as opposed to investor-owned utilities, which are for-profit and prioritize shareholder return. This bill would affect only one electric utility in the State—the Kauai's Island Utility Cooperative (KIUC).

HB 815 authorizes the PUC to “waive or exempt electric cooperatives from the provisions of Chapter 269, HRS, and other regulatory requirements.” Chapter 269 deals with the regulation of public utilities, including the establishment of rates and the use of the PUC to address complaints against electric utilities.

HB 815 is well intentioned, but it is written too broadly and needs to be amended to explicitly preserve PUC oversight of KIUC's actions. Without such oversight KIUC will be unchecked to take advantage of its customers, renewable energy providers, suppliers, etc. who will be unable to seek remedies, recourse and redress against KIUC.

KIUC has a history of criminal behavior, having pleaded guilty to Federal environmental law in the past. KIUC has also attempted to divert water on the island of Kauai from agriculture use to use for hydroelectric generation. To accomplish this KIUC bypassed state regulations and filed its proposals with the Federal Government. This regulatory body responded by saying the

cooperative was “claim jumping” and rejected many of their requests.

Although KIUC has the highest priced electricity in Hawaii it lags behind all other utilities in achieving renewable energy goals set by the state. Financial mismanagement is the reason for this problem and it will become even worse if the PUC no longer regulates the utility.

There are other multiple examples where KIUC has only been willing to resolve disputes via the courts or quietly through settlements involving out-of-state lawyers with sealed results.

HB 815 should be amended to protect the rights and interests of Kauai residents, businesses, current and future independent power providers and preserve their complaint right. There must be a means and third party to mediate disputes and address abuses of power by KIUC.

Respectively submitted,

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HB815

Submitted on: 3/18/2013

Testimony for CPN on Mar 19, 2013 09:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Camp	Individual	Oppose	No

Comments: Dear Sir/Madam, While I support the general idea of exempting COOPs from the more mundane elements of PUC oversight, my experience with KIUC leads me to believe that they need PUC supervision especially with regard to contracting with suppliers for long term supply contracts and on rates. KIUC's board is elected but it has shown a great deal of attachment to the old boy's network and loyalty to the large land owners and corporations that run the island. They have been eager to do deals with folks like A&B but have resisted cheaper sourced electricity from other potential suppliers. There's a stench there. Further, they have been very secretive and have not kept the public informed as to the pricing in these deals. We need the price structure out in the open for transparency and honesty in dealing on behalf of us rate payers. KIUC at best pays lip service to the idea of openness with the members. Without a public PUC docket, secrets stay secret. Who that benefits is not clear. Thank you for considering changing this bill to reflect the protection the ratepayers deserve. regards Dave Camp Kauai

HB 815 Testimony

John Hoff

Private Citizen

Kaua'i Resident 47 years

Dear Committee members,

My testimony will be brief and to the point. I see that HB 815 wishes to "Authorize the PUC to waive or exempt an electric cooperative from certain regulations." Since there is only one "electric cooperative" in the State of Hawaii one must assume this is a bill dedicated to Kauai Island Utility Cooperative (KIUC); a special bill for a special interest. Believe me, there's a reason KIUC wants less restriction.

Allow me to submit to you the reality that this longtime resident has observed over 47 years; KIUC needs more regulation, not less; but it must not be forthcoming from our present Hawaii governing bodies and agencies. The problem being that they are both cut from the same "Plantation cloth"; a fabric woven of collusion, graft and corruption.

Regulation needs to come from the members of the CO-OP, whom are ignored and looked upon only as a market place for KIUC's newly defined "commodity"; KIUC's high cost energy, expensive electricity!

I say "planned expensive electricity": simply from past personal experience of attempting to bring lower cost energy produced by proven technologies to our island and to be, again, "ignored" and ostracized.

I will not meander further as to the lack of professionalism and "best management practices" of either KIUC or their close relative, government. I will request and urge this commission to please kill this bill and allow the members of KIUC to take charge of ousting the present administrative level personnel and to "clean our own house". Do not cave into the idea that KIUC does not need regulation. It needs a proper commitment of regulation initiated by the members to remove this plantation mentality from our community energy source. There

needs to be a competitive energy in putting projects out to sealed bidding that will actually cure Kaua'i's high electrical cost and that can only be done by the members. And, if they do not respond to that commitment, then they deserve the Co-Op they have.

Kill HB 815 and leave the "regulating" up to the "home folks". Step aside and allow us to solve our own problems. There will come a breaking point. **KILL HB 815!**

Thank you for the opportunity to testify and ALOHA.

John Hoff Lawai, Kaua'i