

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

MARCH 19, 2014  
2:10 p.m.

**MEASURE:** S.B. No. 1043, S.D. 1, H.D.1  
**TITLE:** Relating to Electricity Producers

Chair McKelvey and Members of the Committee:

**DESCRIPTION:**

This measure would convene a legislative utility review task force (“Utility Task Force”) for the purpose of reviewing existing franchises held by investor-owned electric public utilities in the State to ensure that these utilities are adequately serving the public. The measure lists issues to be addressed by the Utility Task Force in the course of the review. The measure further requires that, in the course of its review, the Utility Task Force meet publicly and seek input from the public, the Public Utilities Commission (“Commission”), and the Consumer Advocate. This measure also notes that the powers granted to the Utility Task Force are limited to legislative review and recommendation, and shall not duplicate the powers and duties of the Commission.

**POSITION:**

The Commission supports the intent of this measure, but is concerned with the lack of 1) funding to acquire the expertise necessary to advise the Utility Task Force on the business of electric utilities and 2) a clear framework within which to review franchises. The Commission would also like to offer the following comments for the Committee’s consideration.

**COMMENTS:**

S.B No. 1043, S.D. 1, H.D. 1 addresses regulated investor-owned electric utilities. With new technologies and changing customer expectations, the premise of the regulatory compact – that the utility provides all service requirements and that customers purchase all or most of their service requirements from the utility – has eroded. The proliferation of distributed generation, independent power producers, and other advancements in the energy sector have led to a far more complicated electric system than that which existed when Hawaii’s electric utility

franchises were originally granted, affecting the regulatory compact.<sup>1</sup> The Commission previously testified that in light of the changing landscape and complexity of the modern electric system, a review of the fundamental electric utility-customer relationship is warranted.<sup>2</sup>

However, the Commission would like to caution that a review absent proper expertise and a transparent and well-structured process could create uncertainty that negatively affects the electric utility's financial position. If the Legislature chooses to proceed, it must ensure that 1) proper resources are budgeted and allocated to obtain the required expertise on the subject matter, and 2) that the review is based on a framework that clearly establishes the elements of the franchise that will be reviewed, the criteria that will be used to evaluate those elements, and the procedures to be followed in making the evaluation.

While the Commission may assist the Legislature in its review, please note that existing priorities, including timetables for mandated statutory programs, may need to be readjusted to make this accommodation given the heavy workload of the Commission and the Consumer Advocate.

Thank you for the opportunity to testify on this measure.

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<sup>1</sup>Since 2005, the Legislature has increased the number of statutory exceptions to the definition of "public utility" under HRS § 269-1 at least four times, each addition encompassing a new exception for an energy-related operation. See Act 164, Session Laws of Hawaii 2005; see also Act 156, Session Laws of Hawaii 2009; see also Act 9, Session Laws of Hawaii 2011; see also Act 261, Session Laws of Hawaii 2013.

<sup>2</sup>See Testimony of Hermina Morita, Chair, Public Utilities Commission, Department of Budget and Finance of the State of Hawaii to the House Committee on Consumer Protection & Commerce, H.B. No. 1999, H.D. 1, Relating to Electric Utilities, February 10, 2014.



**NEIL ABERCROMBIE**  
GOVERNOR

**SHAN S. TSUTSUI**  
LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

**KEALI`I S. LOPEZ**  
DIRECTOR

**JO ANN UCHIDA TAKEUCHI**  
DEPUTY DIRECTOR

**TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE**

**THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2014**

**WEDNESDAY, MARCH 19, 2014  
2:10 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**

**SENATE BILL NO. 1043, SD1, HD1 - RELATING TO ELECTRICITY PRODUCERS**

**DESCRIPTION:**

This measure proposes establish the Legislative Utility Review Task Force to review franchises held by investor-owned electric utilities.

**POSITION:**

The Division of Consumer Advocacy supports the intent of this bill and offers the following comments.

**COMMENTS:**

Senate Bill No. 1043, SD1, HD1  
House Committee on Consumer Protection & Commerce  
Wednesday, March 19, 2014, 2:10 p.m.  
Page 2

The Consumer Advocate appreciates the intent of the HD1, which is proposing to regularly evaluate investor-owned utility companies to “ensure that these utilities are adequately providing services that serve the public.” All utility companies should be held accountable for their duty to provide safe, reliable, high quality utility services at affordable rates.

Hawaii Revised Statutes (“HRS”) § 269-7 confers upon the Commission the power and authority to investigate a wide range of matters related to public utilities including, but not limited to: the manner in which the utility is operated with reference to safety or accommodation of the public, the fares and rates charged by the utility, compliance with all applicable state and federal laws and with the provisions of its franchise, charter, and articles of association, if any, and all matters of every nature affecting the relations and transactions between the utility and the public.

The Consumer Advocate recognizes that the proposed HD1 provides that the powers of the task force shall be limited to legislative review and will not be duplicative of the powers and duties of the Commission. The Consumer Advocate appreciates the Legislature’s desire to hold the HECO Companies accountable to their franchise by creating this task force, although much of the work of the task force may be duplicative of what the Commission is already doing. The Consumer Advocate will, however, provide the appropriate support to the task force upon request.

Finally, the Consumer Advocate questions how effective the task force will be, because the proposed HD1 does not provide for any reporting requirements, set any deadlines by which the task force is to act, or provide for funding for the task force in which to retain consultants to assist the task force in its deliberative process.

Thank you for this opportunity to testify.

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE**

**S.B. No. 1043, S.D.1, H.D. 1**

**Relating to Electric Utilities**

Wednesday, March 19, 2014

2:10 pm

State Capitol, Conference Room 325

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

Chair McKelvey, Vice Chair Kawakami 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. We are testifying in opposition to S.B. 1043, S.D.1, H.D.1.

This bill establishes a legislative utility oversight task force to conduct a review of the Hawaiian Electric Companies. The issues identified are more appropriately reviewed by the Public Utilities Commission ("PUC" or "Commission").

The legislature has granted the PUC the powers to extensively review the effectiveness of investor-owned electric public utilities in fulfilling their duties to serve the public interest. (HRS § 269-6 - PUC's general powers and duties; HRS § 269-7 investigative powers; and HRS § 269-15 power to institute proceedings to enforce chapter).

The Commission monitors the Companies' performance on an on-going basis, as the Companies file more than 400 compliance and monitoring reports a year. These reports include Company plans as well as performance and progress in implementing programs, projects and operations (e.g., Annual Service Reliability Reports, Capital Budget Reports, Capital Project Status and Completion Reports, Renewable Portfolio Standards ("RPS") Report, Adequacy of Supply, Integrated Resource Plans ("IRP") and 5-Year Action Plans, Monthly and Annual Financial Statements).

The Companies' performance is also reviewed through PUC proceedings. The following are some examples:

- Rate Cases –Company rate case filings provide very comprehensive information. The Companies provide estimates for expense and capital

expenditures in the test year for all of their regulated operations. The filings also provide very detailed information on their operations to support their estimates. The Commission and the Consumer Advocate conduct an in-depth review of this information and require the Companies to respond to numerous information requests. In the Hawaiian Electric 2011 rate case, the Company responded to more than 500 information requests (not counting subparts).

- Reliability Standards (“RSWG”) (Docket No. 2011-0206) – The Commission is examining the implementation of reliability standards for the service territories of the Hawaiian Electric Companies
- Decoupling Investigation (Docket No. 2013-0141) – The Commission has ordered the utilities to publish performance metrics on its website this year.
- IRP (Docket No. 2012-0036) – The Commission is evaluating the Companies’ most recently filed IRP plans, as it does for each cycle of IRP plans.

In addition, the issues of the future role of investor-owned electric public utilities in the State, including whether the function of these utilities should be limited to the provisions of transmission and distribution services and the applicability and nature of the regulatory compact with respect to electric utilities in Hawaii in light of industry changes and other relevant findings, are also more appropriately reviewed by the PUC.

The legal status, procedures and protocols under which utility regulation operates have credibility that provides assurance to investors, large and small – assurance they need before investing billions to support capital projects that benefit utility customers. In utility cases, regulators use expert witnesses, due process, cross-examination, public appearances, written opinions with full explanations, and accountability to the judicial system -- professional and transparent, each reinforcing the other. All of these features are designed to make the regulator independent and objective, resulting in decisions that are equitable in the public interest.

Moreover, the legislature’s review is premature. Last year, the legislature passed Act 37, Sessions Laws of the State of Hawaii 2013, which authorized the PUC to "establish a policy to implement economic incentives and cost recovery regulatory mechanisms, as necessary and appropriate, to induce and accelerate

electric utilities' cost reduction efforts, encourage greater utilization of renewable energy, accelerate the retirement of utility fossil generation, and increase investments to modernize the State's electrical grids."

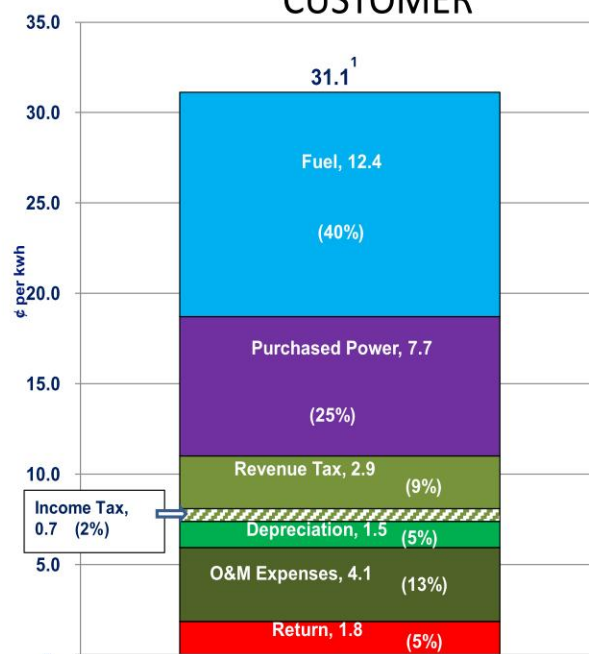
Finally, the Companies would like to offer the following comments:

(1) The franchises provided to the Hawaiian Electric Companies do not grant exclusive rights for the provision of electric service to customers;

(2) Uncertainty brought about by a change to the utilities' franchise could have the unintended consequence of lowering a utility's bond rating which could ultimately affect the cost to attract of the capital needed to support projects that benefit utility customers. This higher cost of capital would ultimately result in higher bills for utility customers, and jeopardize the ability of independent power producers, which rely on the Companies' credit, to obtain financing for their renewable energy projects;

(3) The Companies also are fully aware that the price of electricity in Hawai'i has increased significantly in the past several years, driven largely by higher fuel oil prices. Three components of our bill that are affected by higher oil prices, fuel, purchased power and taxes make up roughly 75% of our customer's bills.

### HAWAIIAN ELECTRIC OAHU AVERAGE RATE PER CUSTOMER



<sup>1</sup> Hawaiian Electric Oahu average rate per customer

Aggressive actions like the Companies' effort to sharply reduce purchased power costs through waiver projects (e.g., 9 grid-connected renewable projects at an average cost of 15.8 cents per kilowatt-hour totaling more than 240 megawatts) and to bring liquefied natural gas ("LNG") to Hawaii are among the actions we are taking on our own initiative to reduce costs to customers.

(4) The Companies' IRP action plans and strategic plans are focused on (1) reducing the utilities' cost to generate, transmit, and distribute power, (2) providing customers with information to enable better choices regarding their energy use; and (3) facilitating customers' ability to generate their own power using rooftop photovoltaics.

Thank you for this opportunity to testify.



**kawakami3-Benigno**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 9:01 PM  
**To:** CPCtestimony  
**Cc:** paulakomarajr@yahoo.com  
**Subject:** Submitted testimony for SB1043 on Mar 19, 2014 14:10PM

**SB1043**

Submitted on: 3/18/2014

Testimony for CPC on Mar 19, 2014 14:10PM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Paul A. komara, Jr. | Individual          | Oppose                    | No                        |

Comments: This should be done by the PUC. I oppose SB 1043

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