

SB 1043

Measure Title: RELATING TO ELECTRICITY PRODUCERS.

Report Title: Power Purchase Agreements; Third-party Electricity Producers; Independent Power Producers; Public Utilities Commission; Records; Business Records

Description: Authorizes 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.

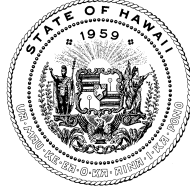
Companion: HB813

Package: Gov

Current Referral: CPN

Introducer(s): KIM (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/24/2013	S	Referred to CPN.
1/29/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-14-13 9:00AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

THURSDAY, FEBRUARY 14, 2013
9:00 A.M.

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

SENATE BILL NO. 1043 - 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 S.B. No. 1043 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
SENATE COMMITTEE ON
COMMERCE & CONSUMER PROTECTION

FEBRUARY 14, 2013
9:00 a.m.

MEASURE: S.B. No. 1043
TITLE: Relating to Electricity Producers

Chair Baker 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 S.B. No. 1043 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 ("HRS"), 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
Senate Committee on
Commerce and Consumer Protection**

S.B. 1043 -- Relating to Electricity Producers

Thursday, February 14, 2013
9:00 am, Conference Room 229

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

Chair Baker, Vice-Chair Galuteria 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 supports S.B. 1043 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, including cost support information and associated materials, would allow the Commission to better determine the reasonableness of proposed prices in the context of the local energy market, independently track trends in renewable energy project development, and more readily compare independent power producers' projects.

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
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SB 1043, RELATING TO ENERGY

February 14, 2013

Chair Baker, Vice-Chair Galuteria, 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 SB 1043 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 for the following reasons:

- 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.

Mahalo for this opportunity to testify.

SB1043

Submitted By	Organization	Testifier Position	Present at Hearing
Robin Kaye	Individual	Support	No
sherri mora	Individual	Support	No
beverly zigmond	Individual	Support	No
Susan Osako	Individual	Support	No
Diane Preza	Individual	Support	No
Donna Stokes	Individual	Support	No
Roselani Kaho'ohalahala	Individual	Support	No
Albert Morita	Individual	Support	No
Sally Kaye	Individual	Support	No