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GOVERNOR

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LT. GOVERNOR

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

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KEALI' I S. LOPEZ  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE  
ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

MONDAY, MARCH 25, 2013  
3:00 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. 1045, S.D. 1, H.D. 1 - RELATING TO ELECTRIC COOPERATIVES

DESCRIPTION:

This measure proposes to direct the Public Utilities Commission ("PUC") and the Division of Consumer Advocacy ("DCA") to specifically consider the ownership structure and interests of an electric cooperative; and authorizes the PUC to waive or exempt an electric cooperative operating in the State from compliance with the provisions of Chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws.

POSITION:

The Division of Consumer Advocacy (Consumer Advocate) supports S.B. No. 1045, S.D. 1, H.D. 1.

Senate Bill No. 1045, S.D. 1, H.D.1  
House Committee on Consumer Protection and Commerce  
Monday, March 25, 2013, 3:00 p.m.  
Page 2

COMMENTS:

Electric utility cooperatives are required to act in the best interest of their member/owners. Unlike investor owner utilities (IOU), cooperatives are not profit-driven.

In various dockets involving Kauai Island Utility Cooperative (KIUC), the Consumer Advocate took the position that the Consumer Advocate would apply the same level of scrutiny to KIUC, in spite of its cooperative ownership model, because Hawaii Revised Statutes Chapter 269, did not provide for any exceptions for electric utility cooperatives. S.B. No. 1045, S.D. 1, H.D. 1 would provide the necessary exception, but at the same time provide adequate protection to the cooperative's member/owners by requiring the cooperative to apply for a waiver or exemption to the Public Utilities Commission.

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

MARCH 25, 2013  
3:00 p.m.

**MEASURE:** S.B. No. 1045, S.D. 1, H.D. 1  
**TITLE:** Relating to Electric Cooperatives

Chair McKelvey and Members of the Committee:

**DESCRIPTION:**

This bill would direct the Public Utilities Commission (“Commission”) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (“Consumer Advocate”) to take into consideration the ownership structure and interests of electric utility cooperatives (“Cooperative”). Further, the Commission is authorized to waive or exempt Cooperatives from having to comply with certain regulatory laws when such compliance is determined by the Commission to be unjust, unreasonable, or not in the public interest. The measure clarifies that any waiver or exemption will not limit the right of customers, Cooperative members, or qualifying facilities to file a complaint with the Commission that a Cooperative “is not adequately serving the interests of its customers, members, or ratepayers.”

**POSITION:**

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

**COMMENTS:**

Chapter 269, Hawaii Revised Statutes, is structured to provide regulatory oversight of investor-owned electric utilities. Cooperatives are member-owned and operate on a not-for-profit basis. Therefore, the Commission believes it would be appropriate to review laws and administrative rules for their applicability to the Cooperative model.

An application for a waiver or exemption must go through a proceeding, which includes the Consumer Advocate as a party, and may, at the discretion of the Commission, include other qualified intervenors or participants. The Commission believes this is an important safeguard to protect the Cooperative member/ratepayer's and the public interest. Further, the bill's purpose makes it clear that it is not the intent of the Legislature in granting this discretionary authority to circumvent statewide clean energy policy mandates. Rather, it is the intent of the Commission to apply its discretionary authority judiciously where, for example, existing laws such as methodologies in the regulation of utility rates or ratemaking procedures may not directly apply to the Cooperative structure.

The current draft includes a provision to explicitly preserve the rights of customers, Cooperative ratepayers, and qualifying facilities to file complaints with the Commission if a Cooperative is seen as not adequately serving the interests of its "customers, members, or ratepayers" that the Commission believes is unnecessary for the following reason. The ability to file a complaint against a public utility with the Commission is a fundamental right of all persons in the State. It would be difficult to impossible for a Commission to justify and the Consumer Advocate to defend why such a right should be abrogated. Therefore, the Commission recommends deleting this added provision found in S.B. No. 1045, S.D. 1, H.D. 1 at page 4, line 8 to line 13 and instead amending the sentence in Section 1 starting at page 2, line 12 to read as follows:

However, the legislature provides that this Act is not intended to exempt electric cooperatives from statutory statewide clean energy policy mandates, such as the State's renewable portfolio standards and energy efficiency portfolio standards, nor is this Act intended to abrogate the right of a cooperative member or qualifying facility to file a complaint that an electric cooperative is not serving the interests of its customers, members, or ratepayers.

Thank you for the opportunity to testify on this measure.

**COUNTY COUNCIL**

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Nadine K. Nakamura, Vice Chair  
Tim Bynum  
Gary L. Hooser  
Ross Kagawa  
Mel Rapozo  
JoAnn A. Yukimura



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**Council Services Division**  
4396 Rice Street, Suite 209  
Līhu'e, Kaua'i, Hawai'i 96766

March 22, 2013

**TESTIMONY OF NADINE K. NAKAMURA  
COUNCIL VICE CHAIR, KAUAI COUNTY COUNCIL  
ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES**

**Committee on Consumer Protection & Commerce**

**March 25, 2013**

**3:00 p.m.**

**Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Council Vice Chair of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely, 

NADINE K. NAKAMURA  
Council Vice Chair, Kaua'i County Council

AB:dmc

**COUNTY COUNCIL**

Jay Furfaro, Chair  
Nadine K. Nakamura, Vice Chair  
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March 22, 2013

**TESTIMONY OF MEL RAPOZO**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES**  
**Committee on Consumer Protection & Commerce**  
**March 25, 2013**  
**3:00 p.m.**  
**Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely, ✎

MEL RAPOZO

Councilmember, Kaua'i County Council

AB:dmc

**COUNTY COUNCIL**

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Nadine K. Nakamura, Vice Chair  
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March 22, 2013

**TESTIMONY OF JAY FURFARO**  
**COUNCIL CHAIR, KAUAI COUNTY COUNCIL**  
**ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES**

**Committee on Consumer Protection & Commerce**

**March 25, 2013**

**3:00 p.m.**

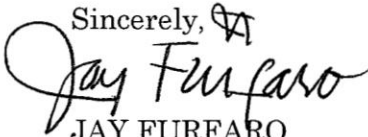
**Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Council Chair of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely, 

JAY FURFARO

Council Chair, Kaua'i County Council

AB:dmc

**COUNTY COUNCIL**

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Nadine K. Nakamura, Vice Chair  
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March 22, 2013

**TESTIMONY OF TIM BYNUM  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES**

**Committee on Consumer Protection & Commerce**

**March 25, 2013**

**3:00 p.m.**

**Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

TIM BYNUM

Councilmember, Kaua'i County Council

AB:dmc



**COUNTY COUNCIL**

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Nadine K. Nakamura, Vice Chair  
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March 22, 2013

**TESTIMONY OF ROSS KAGAWA**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES**

**Committee on Consumer Protection & Commerce**

**March 25, 2013**

**3:00 p.m.**

**Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

ROSS KAGAWA

Councilmember, Kaua'i County Council

AB:dmc

**COUNTY COUNCIL**

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Nadine K. Nakamura, Vice Chair  
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March 22, 2013

**TESTIMONY OF JOANN A. YUKIMURA  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES  
Committee on Consumer Protection & Commerce  
March 25, 2013  
3:00 p.m.  
Conference Room 325**

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,   
JOANN A. YUKIMURA  
Councilmember, Kaua'i County Council

AB:dmc

**COUNTY COUNCIL**

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Nadine K. Nakamura, Vice Chair  
Tim Bynum  
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4396 Rice Street, Suite 209  
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March 22, 2013

**TESTIMONY OF GARY L. HOOSER**  
**COUNCILMEMBER, KAUAI COUNTY COUNCIL**  
**ON**

**S.B. NO.1045, S.D. 1, H.D. 1, RELATING TO ELECTRIC COOPERATIVES**  
**Committee on Consumer Protection & Commerce**

March 25, 2013

3:00 p.m.

Conference Room 325

Dear Chair McKelvey and Committee Members:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, S.D. 1, H.D. 1, Relating to Electric Cooperatives. My testimony is submitted in my capacity as the Councilmember of the Kaua'i County Council.

I am in full support of S.B. No. 1045, S.D. 1, H.D. 1, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045, S.D. 1, H.D. 1, and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

GARY L. HOOSER

Councilmember, Kaua'i County Council

AB:dmc



Testimony Before the House Committee on  
Consumer Protection & Commerce

By Michael Yamane, P.E.  
Chief of Operations  
Kauai Island Utility Cooperative  
4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766-2000

Monday, March 25, 2013, 3:00 p.m.  
Conference Room #325

**Senate Bill No. 1045, SD1, HD1 – Relating to Electric Cooperatives**

To the Honorable Angus L.K. McKelvey, Chair; Derek S.K. Kawakami, Vice-Chair,  
and Members of the Committee:

Thank you for the opportunity to testify on this measure. I am Michael Yamane, Chief of Operations at Kauai Island Utility Cooperative ("KIUC"). I am testifying on behalf of KIUC, and in strong support of the intent of Senate Bill No. 1045, but offer a comment and recommendation as it pertains to SD1, HD1.

As you know, KIUC is a member-owned electric cooperative. This means that KIUC is essentially owned by the very customers it serves. Every customer of KIUC has the right to be a member (i.e., owner) of the cooperative, and currently, over 99.5% of KIUC's customers are members. Electric cooperatives such as KIUC are also not-for-profit and are member-run. KIUC has 9 Board of Directors who are elected by its members through a democratic process.

Without the need to provide profits and dividends to shareholders, cooperatives utilize what would normally be profits (cooperatives call them "margins") and invest them back for the benefit of the cooperative – by either funding new capital projects and initiatives; allocating margins to the members as capital credits; making patronage capital refunds to the members; and otherwise providing for the general welfare of the membership. In other words, these profits stay on the island of Kauai for the benefit of Kauai. In fact, in KIUC's first ten years as a cooperative, KIUC has returned over \$20 million in patronage capital refunds back to its members. These are all monies that would not have been returned back to KIUC's customers, and would have instead gone to shareholders, if KIUC was instead an investor-owned utility.

The above underscores that, as a cooperative, KIUC is inherently structured and committed to do what is in the overall best interests of its members. One of those commitments is to reduce

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the island's dependency on imported fossil fuels. This has been formalized in KIUC's Strategic Plan, which calls for 50% renewable generation by 2023.

Senate Bill No. 1045 will authorize and direct the Hawaii Public Utilities Commission to specifically consider the ownership structure and interests of not-for-profit, consumer-owned electric cooperatives, and to take actions and grant waivers and exemptions to HRS Chapter 269 and other applicable requirements consistent with how best to regulate and oversee an electric cooperative. This is especially important given that HRS Chapter 269 was created to provide regulatory oversight over investor-owned utilities, and decades before the State's first electric cooperative came into existence back in November of 2002. As such, it is important for the Commission to have the power and flexibility to consider an electric cooperative's ownership structure and non-profit status, and to correspondingly establish an appropriate regulatory structure for an electric cooperative in the State.

It is also important to recognize, however, that Senate Bill No. 1045 does not give the Commission unfettered discretion to grant a waiver or exemption. Any waiver or exemption would be done through a formal proceeding before the Commission, which includes the Consumer Advocate as a party, and may, at the discretion of the Commission include other qualified intervenors or participants. Under the subject measure, the Commission is only authorized to grant a waiver or exemption if it finds that the regulatory requirements sought to be waived or exempted should not be applied to an electric cooperative or are otherwise unjust, unreasonable, or not in the public interest.

For the above reasons, KIUC strongly supports the intent of Senate Bill No. 1045 and what it is designed to accomplish. However, having said this, KIUC has concerns with the latest change made to Senate Bill No. 1045 as found in SD1, HD1, in which the following language was added:

The waiver or exemption provided in this subsection shall not hinder, restrict, or prevent the right of any customer, ratepayer of an electric cooperative, or qualifying facility, to file a complaint with the public utilities commission that the electric cooperative is not adequately serving the interest of its customers, members, or ratepayers.

This additional language noted above is superfluous and unnecessary and should, therefore, be removed, as the right to file a complaint is already found in the PUC's administrative rules and this right is not being modified by this measure. In addition, it is important to recognize that, as noted in this measure's own preamble, (1) the purpose of Senate Bill No. 1045 is to recognize that, unlike an investor-owned utility, an electric cooperative is a customer/ratepayer-owned organization under the governance of a board of directors democratically elected by the very same customers/ratepayers who receive the cooperative's services and who act in their role as owners and members of the cooperative, and (2) the nature of electric cooperatives provides multiple safeguards that ensure that the everyday user receiving electricity services has a say in determining whether that cooperative functions in the interests of both the organization and the individual consumers.

Due to the above concerns, KIUC's preference is to proceed with the language set forth in SB 1045, SD1.

Thank you again for the opportunity to inform you of KIUC's position on this matter.



**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

March 25, 2013, 3:00 P.M.

Room 325

**(Testimony is 2 pages long)**

**TESTIMONY IN OPPOSITION TO SB 1045 SD1 HD1, SUGGESTED AMENDMENTS**

Chair McKelvey and members of the Consumer Protection & Commerce Committee:

The Blue Planet Foundation opposes SB 1045 SD1 HD1 as currently written. 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 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. It is likely that this wouldn't be 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. 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 SB 1045 SD1 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 addition of the following language to subsection (b) of SB 1045 SD1 HD1:

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.

Thank you for this opportunity to testify.