



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
Richard C. Lim
Director

Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Tuesday, March 19, 2013

8:30 a.m.

State Capitol, Conference Room 325
in consideration of

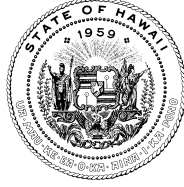
SB 19, SD1 RELATING TO RENEWABLE ENERGY.

Chair Lee and, Vice Chair Thielen, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports SB 19, SD1. This measure would exempt owners and lessors who install renewable energy systems on their property and sell the electricity generated to their tenants or lessees on their premise from the definition of "public utility."

We believe this bill will allow renters and lessees the ability to take advantage of lower-priced, fixed-rate renewable energy, accelerating the adoption of renewable energy in Hawaii and helping the State meet its clean energy objectives. We respectfully defer to the Public Utilities Commission (PUC) regarding the regulatory aspects of this bill.

Thank you for the opportunity to offer these comments.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
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 COMMITTEES ON
ENERGY & ENVIRONMENTAL PROTECTION
AND ECONOMIC DEVELOPMENT & BUSINESS

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

TUESDAY, MARCH 19, 2013
8:30 AM

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE CHRIS LEE AND CLIFT TSUJI, CHAIRS, AND
MEMBERS OF THE COMMITTEES

SENATE BILL NO. 19, S.D. 1 - RELATING TO RENEWABLE ENERGY

DESCRIPTION:

This measure proposes to exempt landlords and lessors who install renewable energy systems to their property from the definition of "public utility."

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") supports this bill.

COMMENTS:

This bill provides an opportunity for renters to be able to benefit from the cost-savings of renewable energy systems, such as solar photovoltaic ("solar pv")

Senate Bill No. 19, S.D. 1
Senate Committees on Energy & Environmental Protection and
Senate Committee on Economic Development & Business
Tuesday, March 19, 2013, 8:30 a.m.
Page 2

systems, without having to incur the cost of installing the systems themselves. It further provides landlords with investment opportunities that could ultimately benefit both the landlord and the tenant.

Insofar as a landlord who places a renewable energy system on the property that is occupied by the tenant, exception (M) to Hawaii Revised Statutes Section 269-1 already provides that that landlord would not be a “public utility.” This is consistent with the Public Utilities Commissions’ (“PUC”) decision and order in the Maui Kele Shopping Center request for declaratory ruling Docket No. 2011-0329.

The Consumer Advocate expressed concerns over electrical grid reliability and safety with respect to the original version of Senate Bill No. 19. The amended version, Senate Bill No. 19, S.D. 1, addresses those concerns.

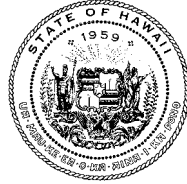
Furthermore, the Consumer Advocate questioned whether the original bill provided sufficient safeguards to tenants who may not be on equal bargaining power with landlords or lessors. The Consumer Advocate suggested revisions to Senate Bill No. 19, which have been adopted in the amended version of this bill, Senate Bill No. 19, S.D. 1.

The Consumer Advocate therefore supports Senate Bill No. 19, S.D. 1.

Thank you for this opportunity to testify.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy & Environmental Protection

Date: Tuesday, March 19, 2013

Time: 8:30 A.M.

Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 19 S.D. 1 Relating to Renewable Energy

The Department of Taxation (Department) **supports** S.B. 19 S.D. 1 and provides the following information and comments for your consideration.

This measure exempts landlords who install renewable energy systems on their property and sell the electricity to their tenants from being considered a public utility and thus being subject to the public service company tax. The Department prefers landlords in this situation not be considered public utilities subject to the public service company tax, but rather that they be considered regular business taxpayers subject to the general excise tax. The Department believes this is simpler for taxpayers and is more consistent with the intent of these respective taxes.

Thank you for the opportunity to provide comments.

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

MARCH 19, 2013
8:30 a.m.

MEASURE: S.B. No. 19, S.D. 1
TITLE: Relating to Renewable Energy

Chair Lee and Members of the Committee:

DESCRIPTION:

This measure proposes to create a specific exemption from the definition of “public utility” under Section 269-1, Hawaii Revised Statutes (“HRS”), for landlords and lessors who sell electricity produced by renewable energy systems located on the landlord’s or lessor’s property to tenants and lessees occupying such property. S.B. No. 19, S.D. 1 specifies that the proposed exemption is limited to only those renewable energy systems where the system owner and the tenant purchasing electricity service are served by the same utility meter and service connection. Also, this measure sets the maximum level for rates charged to a tenant purchasing electricity service at the rate charged by the incumbent electric utility company.

POSITION:

The Public Utilities Commission (“Commission”) would like to offer the following comments for the Committee’s consideration.

COMMENTS:

Given a reasonable of circumstances, the application of existing case law and precedent on the matter would likely result in the same outcome that a landlord power provider would not be considered a public utility, but this would allow the Commission to review a specific set of facts and then issue a declaratory ruling. The Legislature should proceed cautiously when considering additional exemptions to the definition of public

utility. Not all landlord-tenant agreements or projects are standardized and safeguards should be in place to ensure that property owners selling electricity to tenants do not reach a level where they are acting as a de facto public utility. Again, existing case law and precedent can address the typical situation of a single or multi-family unit on one defined parcel. However, the proposed exemption appears to be broad and overreaching, with no clear information on larger types of projects on multiple parcels.

The Commission proposes that instead of moving forward with such a wholesale exemption for landlord electricity producers, that the Commission establish a standardized screening process that would allow the Commission to quickly determine whether a landlord electricity producer falls within existing exemptions and legal precedent. The use of this sort of screening tool would provide a faster low-cost method for landlords to verify the facts of their project before the Commission. Such a process will also give the Commission and Legislature the necessary information to make an informed decision on whether additional exemptions to the definition of a public utility are warranted.

Furthermore, if an electricity provider would like to remain unregulated by the Commission, there are alternative organizational structures such as a consumer cooperative. However, if the intent is to sell electricity at a profit and bind multiple tenants or lessees to an electricity purchase contract, the Legislature should be well informed as to the ramifications of making such an entity exempt from regulation for an essential service.

Thank you for the opportunity to offer comments on this measure.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Complete Construction Services Corp.

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Ryan Engle

Bays Lung Rose & Holma

Scotty Anderson

Pacific Rim Partners

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the House Committee on Energy and Environmental Protection Tuesday, March 19, 2013

8:30 a.m.

Capitol, Room 325

RE: S.B. 19, S.D. 1, RELATING TO RENEWABLE ENERGY

Dear Chair Lee, Vice-Chair Thielen, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii would like to offer **comments** on S.B. 19, S.D. 1, which proposes to exempt landlords and lessors who install renewable energy systems to their property from the definition of "public utility."

The bill attempts to create an incentive for lessors to invest in alternative energy systems and by allowing the lessor to negotiate utility rates as a part of the lease. The bill is unclear as to whether or not the negotiated rates are tied to the prevailing rates regulated by the PUC. The concern is with the limited availability of real estate in this State; would the proposed bill create a situation where a lessee would be forced to pay a premium on the lease rent not only for location, but also to create a return on investment for the lessor's alternative energy system? If this premium on the negotiated lease also exceeds the prevailing PUC approved rates, this added cost would either be absorbed by the lessee or passed on to the consumer if the lessee were a commercial enterprise.

We recommend that these issues be discussed further through the legislative process.

Thank you for the opportunity to express our views on this matter.

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

MARCH 19, 2013
8:30 a.m.

MEASURE: S.B. No. 19, S.D. 1
TITLE: Relating to Renewable Energy

Chair Lee and Members of the Committee:

DESCRIPTION:

This measure proposes to create a specific exemption from the definition of “public utility” under Section 269-1, Hawaii Revised Statutes (“HRS”), for landlords and lessors who sell electricity produced by renewable energy systems located on the landlord’s or lessor’s property to tenants and lessees occupying such property. S.B. No. 19, S.D. 1 specifies that the proposed exemption is limited to only those renewable energy systems where the system owner and the tenant purchasing electricity service are served by the same utility meter and service connection. Also, this measure sets the maximum level for rates charged to a tenant purchasing electricity service at the rate charged by the incumbent electric utility company.

POSITION:

The Public Utilities Commission (“Commission”) would like to offer the following comments for the Committee’s consideration.

COMMENTS:

Given a reasonable of circumstances, the application of existing case law and precedent on the matter would likely result in the same outcome that a landlord power provider would not be considered a public utility, but this would allow the Commission to review a specific set of facts and then issue a declaratory ruling. The Legislature should proceed cautiously when considering additional exemptions to the definition of public

utility. Not all landlord-tenant agreements or projects are standardized and safeguards should be in place to ensure that property owners selling electricity to tenants do not reach a level where they are acting as a de facto public utility. Again, existing case law and precedent can address the typical situation of a single or multi-family unit on one defined parcel. However, the proposed exemption appears to be broad and overreaching, with no clear information on larger types of projects on multiple parcels.

The Commission proposes that instead of moving forward with such a wholesale exemption for landlord electricity producers, that the Commission establish a standardized screening process that would allow the Commission to quickly determine whether a landlord electricity producer falls within existing exemptions and legal precedent. The use of this sort of screening tool would provide a faster low-cost method for landlords to verify the facts of their project before the Commission. Such a process will also give the Commission and Legislature the necessary information to make an informed decision on whether additional exemptions to the definition of a public utility are warranted.

Furthermore, if an electricity provider would like to remain unregulated by the Commission, there are alternative organizational structures such as a consumer cooperative. However, if the intent is to sell electricity at a profit and bind multiple tenants or lessees to an electricity purchase contract, the Legislature should be well informed as to the ramifications of making such an entity exempt from regulation for an essential service.

Thank you for the opportunity to offer comments on this measure.



House Committee on Energy and Environmental Protection
House Committee on Economic Development and Business
Tuesday, March 19, 2013 at 8:30 a.m.
State Capitol, Conference Room 325
SB19 Relating to Renewable Energy

Testimony in SUPPORT of SB19

Frank Striegl, Senior Vice President, Capital Projects, Carmel Partners

Chair Lee, Vice Chair Thielen, and Committee Members of the House Committee on Energy and Environmental Protection
Chair Tsuji, Vice Chair Ward and Committee Members of the House Committee on Economic Development and Business

Carmel Partners **supports** Senate Bill 19, the bill that exempts landlords and lessors who install renewable energy systems on their property and sell the electricity generated to their tenants or lessees on the premise from the definition of "public utility".

Carmel Partners is a real estate investment company that acquires, rehabilitates and operates multi-family communities in Hawaii. We are committed to creating quality communities using innovative ideas and solutions to enhance the value for our residents.

While we continue to strongly support SB19, we have serious concerns about recent amendments made to SB19 that are contained in the current version of SB19 SD1. The first recent amendment restrictively, and unnecessarily, requires a single meter and single connection: **"in which the owner or lessor and the tenant are served by the same utility meter and service connection;"**

There are many commercial and residential rental properties where each rental unit or space is individually metered and where the tenant is responsible for paying the utility directly for its own electric usage. The owner of the rental community or commercial property in these cases typically has a separate utility meter for common area electric usage. This creates the possibility of conflict with the current wording of the bill that requires that the lessor and tenant be served by the same meter. Renewable energy can be provided in this configuration without utilizing the electric utility's lines however the current language would prohibit this configuration from being included in this exemption. We offer the following alternative language, which is more direct, to safeguard the utility from potential wheeling while not limiting the configurations for different properties:

PROPOSED LANGUAGE:

Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; and in which the owner or lessor and the tenant are served by the same utility meter and service connection; provided further that such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;

Additionally, while SB19 includes appropriate provisions to protect tenants by providing that the rate schedule shall be no greater than the rate charged per kilowatt hour by the electric utility, the rate allowed by the landlord should include all other relevant and applicable charges that the utility is allowed.

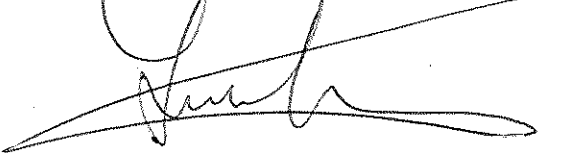
PROPOSED LANGUAGE:

provided further that the rate schedule charged to the lessee or tenant for the power generated by the renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour **plus all other relevant and applicable charges, including any and all energy, customer, and demand charges, and any applicable surcharges and adjustments** charged by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate shall under no circumstances be greater than the rate **and all other relevant and applicable charges** charged by the electric utility.

Given the state's aggressive clean energy goals, SB19 takes away a huge barrier that will increase distributed generation.

Thank you for the opportunity to testify in support on this important matter.

Garmel Partners

A handwritten signature in black ink, appearing to read 'Frank Striegl', written over a horizontal line.

Frank Striegl, SVP



HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Tuesday, March 19, 2013, 8:30 a.m.

TESTIMONY IN SUPPORT OF SB 19 RELATING TO RENEWABLE ENERGY

Chair Lee, Vice Chair Thielen, and Members of the Committee:

Distributed Energy Partners is a Hawaii based, owned, and operated firm specializing in the development of commercial-scale distributed renewable energy projects, which include solar, wind, and emerging technologies.

Distributed Energy Partners strongly supports SB 19, which would amend Hawaii Revised Statutes, Chapter 269 to clarify that property owners who install a photovoltaic system or other renewable energy systems on their property can sell power they generate to their tenants without being deemed to be a "public utility" under Chapter 269.

Under the current law, there is no such explicit exclusion for property owners who sell power they generate to their tenants. As a result, there is some ambiguity as to whether such property owners could be considered to be a "public utility" by the Public Utilities Commission. This ambiguity leads owners of shopping centers, apartment buildings, and other commercial properties to either shy away entirely from installing photovoltaic solar systems on their property, or to install much smaller systems that serve only the common areas of the building and not the tenants.

Passing SB 19 and clarifying that property owners will not be deemed to be a public utility solely for selling power they generate to their tenants will further Hawaii's interest in promoting renewable energy. Many of the commercial properties that would be benefitted from the passage of SB 19 are ideal candidates for photovoltaic solar systems, since they have a large daytime electricity load. The enactment of SB 19 would also benefit tenants by allowing them to share in the electricity savings to the property owner.

We also note that SB 19 also includes appropriate safeguards to protect tenants – specifically, the new exception would only apply where the electricity rate charged to the tenant by the property owner is fixed in advance and is part of the lease agreement between the property owner and the tenant.

However, we are concerned about two recent additions to bill, namely: (1) language requiring renewable energy systems to be limited to properties where the owner or lessor and the tenant are served by the same utility meter and service connections; and (2) specifying that tenants and lessees shall not be required to pay their respective landlords or lessors an amount that exceeds the rate charged by the electric utility.

While we appreciate the goals of these additions, we are concerned that the the 1 meter limitation would render configurations where individual meters and service connections, many which already exist, invalid under this exemption. We propose that the solution to safeguard



against potential wheeling would be to directly address the concern with language that does not contain meter configurations. For example, the language could be modified as follows:

...Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; **Provided further that such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;**

As to the second concern, rates charged by the utility should include clarifying language that allows the landlord to charge all other relevant and applicable charges that the utility charges. For example, the language could be modified as follows:

...provided further that the rate schedule charged to the lessee or tenant for the power generated by the renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour **plus all other relevant and applicable charges, including any and all energy, customer, and demand charges, and any applicable surcharges and adjustments charged** by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate shall under no circumstances be greater than the rate **and all other relevant and applicable charges** charged by the electric utility.

We strongly support SB 19 and request that the Committee make the two changes outlined above to fulfill the intent of SB 19 while providing adequate protections to consumers and the utility.

Sincerely,

John Cheever

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 16, 2013 8:41 AM
To: EEPtestimony
Cc: douglasperrine@yahoo.com
Subject: Submitted testimony for SB19 on Mar 19, 2013 08:30AM

SB19

Submitted on: 3/16/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Comments Only	No

Comments: SB19 is an important bill to advance Hawaii's renewable energy goals, but only if it is amended to remove the requirement that the buyer and seller of the renewable energy be served by the same meter. This "Trojan horse" clause, not present in the bill as originally written, defeats the intent of the bill by making it inapplicable to the majority of persons it was intended to protect. Most real estate investors do not live on the rental property with their tenants, and do not share a meter with them. This clause means the investor cannot install a renewable energy system, such as solar panels, on the rental property with the confidence that he will be able to recoup his investment by selling that energy to the tenants who lease the property. With this clause inserted into the bill, it has become irrelevant, and will do as much to defeat Hawaii's renewable energy goals as to advance them.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



House Committee on Energy and Environmental Protection
House Committee on Economic Development and Business
Tuesday, March 19, 2013 at 8:30 a.m.
State Capitol, Conference Room 325
SB19 Relating to Renewable Energy

Testimony in SUPPORT of SB19

Jon Wallenstrom, Forest City Hawaii Residential Inc, President

Chair Lee, Vice Chair Thielen, and Committee Members of the House Committee on Energy and Environmental Protection
Chair Tsuji, Vice Chair Ward and Committee Members of the House Committee on Economic Development and Business

Dear Chairs Lee and Tsuji,

Forest City **supports** Senate Bill 19, the bill that exempts landlords and lessors who install renewable energy systems to their property from the definition of "public utility."

Forest City is one of the largest residential community and renewable-energy developers in the state of Hawaii. At Forest City, we leverage our real estate experience to create renewable energy projects. These developments help offset the high cost of energy in Hawaii for both our residents and the greater community, while also decreasing the state's dependence on fossil fuels.

While we support SB19, the current version of SB19 SD1 restricts configurations by requiring a single meter and single connection: **"in which the owner or lessor and the tenant are served by the same utility meter and service connection;"**

Today, many tenants have individual utility meters. Landlords can provide energy in this configuration without utilizing the electric utility's lines. We offer this alternative language, which directly safeguards the utility from potential wheeling while not limiting the configurations for properties:

PROPOSED LANGUAGE:

Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; **provided further that such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;**

Additionally, we recommend that when referring to the utility rates, that it is clarified that it includes all other relevant and applicable charges, the same way the effective rate from the utility

is derived.

PROPOSED LANGUAGE:

provided further that the rate schedule charged to the lessee or tenant for the power generated by the renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour **plus all other relevant and applicable charges, including any and all energy, customer, and demand charges, and any applicable surcharges and adjustments charged** by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate shall under no circumstances be greater than the rate **and all other relevant and applicable charges** charged by the electric utility.

SB19 is absolutely necessary to serve the segment of the population that will otherwise undoubtedly continue to be underserved

Thank you for the opportunity to testify in support on this important matter.

Sincerely,



Jon Wallenstrom
President
Forest City Hawaii Residential, Inc.

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Tuesday, March 19, 2013, 8:30 a.m.

TESTIMONY IN SUPPORT OF SB 19 RELATING TO RENEWABLE ENERGY

Chair Lee, Vice Chair Thielen, and Members of the Committee:

Green Building LLC is a Maui-based, owned, and operated green building consulting firm specializing in helping homeowners, developers, architects, designers and engineers to design, build, and retrofit high performance, sustainable buildings and homes.

Green Building LLC strongly supports SB 19, which would amend Hawaii Revised Statutes, Chapter 269 to clarify that property owners who install a photovoltaic system or other renewable energy systems on their property can sell power they generate to their tenants without being deemed to be a "public utility" under Chapter 269.

Under the current law, there is no such explicit exclusion for property owners who sell power they generate to their tenants. As a result, there is some ambiguity as to whether such property owners could be considered to be a "public utility" by the Public Utilities Commission. This ambiguity leads owners of shopping centers, apartment buildings, and other commercial properties to either shy away entirely from installing photovoltaic solar systems on their property, or to install much smaller systems that serve only the common areas of the building and not the tenants. As a result, achieving LEED Certification through the US Green Building Council (USGBC) or an Energy Star Rating via the U.S. EPA is made much more difficult for these buildings, thereby limiting their benefit to their owners, tenants, and the state as a whole.

Passing SB 19 and clarifying that property owners will not be deemed to be a public utility solely for selling power they generate to their tenants will further Hawaii's interest in promoting renewable energy. All Hawaii residents' lives are improved by property owners retrofitting their respective buildings to reduce their environmental impact. Many of the commercial properties that would be benefitted from the passage of SB 19 are ideal candidates for photovoltaic solar systems, since they have a large daytime electricity load. The enactment of SB 19 would also benefit tenants by allowing them to share in the electricity savings to the property owner.

We also note that SB 19 includes appropriate safeguards to protect tenants – specifically, the new exception would only apply where the electricity rate charged to the tenant by the property owner is fixed in advance and is part of the lease agreement between the property owner and the tenant, and the electricity rate must be lower than the rate charged by the utility.

Property owners should not be deemed a "public utility" solely for selling power they themselves generate on their property to tenants on that property. SB 19 would ensure that these property owners are not considered a public utility and would allow them to participate in Hawaii's clean energy initiatives. We support SB 19 and urge you to pass it as drafted. Thank you for the opportunity to provide this testimony.

Sincerely,

Alex de Roode
Director of Business Development & Sustainability
Green Building LLC

GSF LLC
1288 Ala Moana Bldg · Apt 35A
Honolulu HI 96814
808.429.7815 o · 808.356.0455 f
gary@gsfhi.com

House Committee on Energy and Environmental Protection
House Committee on Economic Development and Business
Tuesday, March 19, 2013 at 8:30 a.m.
State Capitol, Conference Room 325
SB19 Relating to Renewable Energy

Testimony in SUPPORT of SB19
Gary Furuta, GSF, LLC

Chair Lee, Vice Chair Thielen, and Committee Members of the House Committee on Energy and Environmental Protection
Chair Tsuji, Vice Chair Ward and Committee Members of the House Committee on Economic Development and Business

GSF, LLC **supports** Senate SB19, the bill that exempts landlords and lessors who install renewable energy systems on their property and sells to their tenants and lessees from the definition of "public utility".

GSF, LLC serves as development consultant for various non-profit development corporations that develop very low-income rental projects ($\leq 60\%$ Area Median Income). In managing the affordable rentals we are always looking for ways of reducing operating expenses, e.g., photovoltaic, that will benefit tenants.

We support SB19, however, we have concerns about the current version of SB19 SD1, which is restrictively requires a single meter and single connection: **"in which the owner or lessor and the tenant are served by the same utility meter and service connection;"**

Energy can be provided to tenants without utilizing the electric utility's lines. We offer this alternative language, which is more direct, to safeguard the utility from potential wheeling while not limiting the configurations for different properties:

PROPOSED LANGUAGE:

Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; **provided further that such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;**

Additionally, the rate schedule provision should include that the rate allowed by the landlord should include all other relevant and applicable charges that the utility is allowed.

PROPOSED LANGUAGE:

provided further that the rate schedule charged to the lessee or tenant for the power generated by the

renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour **plus all other relevant and applicable charges, including any and all energy, customer, and demand charges, and any applicable surcharges and adjustments charged** by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate shall under no circumstances be greater than the rate **and all other relevant and applicable charges** charged by the electric utility.

This bill will allow many low-income rental projects to provide energy to the tenants.

Thank you for the opportunity to offer testimony in support of SB19.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Furuta", written over a faint, illegible background.

Gary Furuta
GSF, LLC

March 19, 2013

The Honorable Chris Lee, Chair

House Committee on Energy & Environmental Protection
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 19, S.D.1, Relating to Renewable Energy

HEARING: Tuesday, March 19, 2013 at 8:30 a.m.

Aloha Chair Lee, Vice Chair Thielen, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,000 members. HAR **supports** S.B. 19 which exempts landlords and lessors who install renewable energy systems to their property from the definition of "public utility."

HAR believe the current statute which would classify a landlord as a public utility if they provide renewable energy to tenants is a huge disincentive. The exemption that this measure would provide the landlord or lessor could encourage investment to benefit the tenants served, by providing them energy produced by renewable sources such as solar photovoltaic.

There are numerous benefits to the tenants, which includes an awareness of energy efficient lifestyle as well as potentially more stable energy rates.

Mahalo for the opportunity to testify.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Before the House Committee on Energy & Environmental Protection
Before the House Committee on Economic Development & Business
Tuesday, March 19, 2013, 8:30 a.m., Conference Room 325
SB 19 SD 1: RELATING TO RENEWABLE ENERGY

Aloha Chair Lee, Chair Tsuji, Vice-Chair Thielen, Vice-Chair Ward, and members of the House Committee on Energy & Environmental Protection, and House Committee on Economic Development & Business,

On behalf of the Hawaii Solar Energy Association (HSEA), I would like to testify **in strong support for SB 19 SD 1**, which exempts landlords and lessors who install renewable energy systems on their property from the definition of “public utility.”

Solar is key to our green energy future

Hawaii is dangerously dependent upon imported fossil fuels, and the cost and uncertainty of fossil fuels will only increase. Recent reports have indicated that oil may reach \$180/barrel or more by 2020, and scientists have found that climate change has exacerbated global warming more than they believed, with recent data showing that the Antarctic is warming three times the previously predicted rate. Transforming our electrical grid to a green energy infrastructure will bring both added security and stability to our state’s economy, and also contribute to an overall reduction of greenhouse gasses for everyone.

Both property owners and tenants would benefit if property owners could sell electricity generated from renewable sources

A recent report completed by Harcourt, Brown & Carey for the on-bill financing docket currently before the PUC found that 41% of all Hawaii residents rent. The commercial sector is similarly situated. Only in rare circumstances are renters able to take advantage of renewable energy technology, and under the current definition of “public utility” a landlord who installs renewable energy and sells electricity to tenants on that land would be considered a public utility, no matter how small the installation, or the fact that the energy does not leave the property boundaries. This bill would create an exemption that would allow and encourage landlords who have the means to install renewables, and sell the electricity generated to tenants on the same property. Not only would this benefit tenants and give them the potential to use “clean energy,” but it would also add to the overall value of the property. This bill is a win-win for all, and would include renters in our clean energy future.

Thank you for the opportunity to testify.

Leslie Cole-Brooks
Executive Director
Hawaii Solar Energy Association (HSEA members listed below)

AET, LLC
Alternate Energy
Bonterra Solar
C & J Solar Solutions
Conergy
Energy Industries
Dependable Hawaii Express
Ferguson
Giant Solar
Hawaii Energy Connection
Hawaii Island Solar
Hoku Scientific
Island Pacific Energy
Ku'oko'a
Maui Pacific Solar
Pacific Basin
Poncho's Solar
Rheem Manufacturing
Smart Energy Hawaii
SolarWave Hawaii
Sun Earth, Inc.
Talent HR Solutions
Enecsys Micro-inverters

Affordable Solar Contracting
American Electric Company, LLC
Bureau Veritas North America
Coffman Engineers, Inc.
DHX
Enphase
Energy Unlimited, Inc.
Forest City Residential Group
Grand Solar
Hawaii Home Expo & Marbelhaus Trading
Hi-Tech Plumbing
Honeywell Utility Solutions
Island Solar Service
Kyocera Solar Inc.
Mercury Solar
Phoenix Solar
R & R Solar Supply
Schenk's Specialized Services LLC
Solar Services Hawaii
SolarWorld California
Sunetric
WESCO Distribution

Allana Buick & Bers
B. Bautista Electrical
Cano Electric
Allen's Plumbing
Dr. Stephen Allen
Energy Industries
EnergyPro Hawaii
Gexpro
Haleakala Solar
Hawaii Electric Company
HNU Energy
Inter-Island Solar Supply
Kheiron Partners
Lumen Solar, LLC
Morikawa & Associates
PhotonWorks Engineering
REC Solar, Inc.
Schlissel & Associates
SolarCity
Sun King
SunHedge
Unirac



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

March 17, 2013

The Hon. Chris Lee, Chair, and
Members of the House Committee on
Energy & Environmental Protection

The Honorable Cliff Tsuji, Chair, and
Members of the House Committee on
Economic Development & Business

Re: Testimony in **Support** of SB 19, SD 1, Relating to Renewable Energy
Hearing: 8:30 a.m., March 19, 2013
Conference Room 325, Hawaii State Capitol

Dear Chairs Lee and Tsuji, and Members of the Committees:

I am submitting this testimony on behalf of NAIOP Hawaii in **support** of S.B. 19, S.D. 1, relating to renewable energy. We are the Hawaii chapter of NAIOP, the Commercial Real Estate Development Association, which is the leading national organization for developers, owners and related professionals in office, industrial and mixed-use real estate. The local chapter comprises property owners, managers, developers, financial institutions and real estate related professionals who are involved in the areas of commercial and industrial real estate in the State of Hawaii.

NAIOP Hawaii supports this measure, which would allow landlords to provide renewable energy to tenants without becoming classified as a "public utility." We understand that certain landlords may have been deterred from developing renewable energy for provision to their tenants because of their concern they will become a utility subject to regulation by the Public Utilities Commission. This measure would clarify that the definition of "public utility" is not intended to cover such a situation.

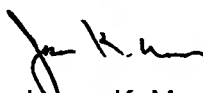
The one area of the SD 1 version of the bill that gives us some concern is that it would restrict the ability to provide power to situations where there is only one meter and service connection. Many properties are set up so that tenants are individually metered. Rather than simply prohibiting the landlord to develop renewable energy in such a situation, we would suggest that the situation be addressed directly by deleting the restriction and inserting language along the lines of "provided further that such person does not use an electric utility's facilities to provide, sell or transmit power to a lessee or tenant."

Given Hawaii's efforts to lessen dependence on fossil fuel and to encourage development of alternative energy, it makes sense to encourage landlords to provide viable renewable energy programs that can lower the costs of electricity for tenants.

The Hon. Chris Lee and Hon. Clift Tsuji, and
Members of the House Committees on
Energy & Environmental Protection and
Economic Development & Business
March 17, 2013
Page 2

Thank you for the opportunity to submit our testimony on this measure.

Respectfully,

A handwritten signature in black ink, appearing to read "James K. Mee".

James K. Mee
Chair, Legislative Affairs Committee

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 12:27 PM
To: EEPtestimony
Cc: cching@castlecooke.com
Subject: Submitted testimony for SB19 on Mar 19, 2013 08:30AM

SB19

Submitted on: 3/18/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carleton Ching	Castle & Cooke	Comments Only	No

Comments: We continue to support the SB 19 as it was originally drafted; however, we have concerns about the amendments made and reflected in SB19 SD1, and we offer the following comments: 1. The requirement that the landlord and the tenant be served by the same meter and service interconnection unnecessarily narrows the effectiveness of this measure as the concern about using the utility's lines and facilities can be directly addressed by simply providing that the landlord cannot use an electric utility's transmission or distribution lines to provide, sell or transmit power to the tenant. 2. The limit on the amount that a landlord can charge a tenant for renewable energy to the rate charged per kilowatt hour by the electric utility should be amended to include all other amounts charged by the electric utility in addition to the rate the utility charges per kilowatt hour.

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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HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

March 19, 2013, 8:30 A.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF SB19 SD1

The Blue Planet Foundation **supports** SB 19, ensuring that landlords who provide renewable energy to tenants are not erroneously classified as a “utility.”

In sum, SB 19 is sensible because:

- (1) it will promote renewable energy, especially in the under-served rental market;
- (2) landlords are far more like other exempt entities under H.R.S. Ch. 269, and are not the same as regulated utilities like HECO;
- (3) Hawaii’s landlord-tenant code (H.R.S. Ch. 521) already contains provisions to ensure that tenants are protected, and specifically requires landlords to maintain electrical facilities.

RENTERS DESERVE EQUAL ACCESS TO RENEWABLE ENERGY

Hawaii must do all it can to help residents—homeowners and renters alike—use renewable energy as a solution to high energy prices and detrimental reliance on fossil fuels. But current rules unfortunately prolong a “split incentive” problem in many rental contexts. Where a landlord would be responsible for purchasing renewable energy equipment, but the tenant would be responsible for paying the energy bill, their incentives are not aligned. Landlords would spend, but tenants would save. Thus, while many homeowners are accessing renewable energy, solutions for tenants have been more scarce. SB 19 helps to unlock these split incentives by allowing landlords to recoup the upfront cost of renewable energy from the savings that tenants will enjoy on their bills. SB 19 achieves this **without imposing onerous regulations on landlords**, and **without imposing additional regulatory duties on the Public Utilities Commission**.

SB 19 TREATS LANDLORDS LIKE OTHER SIMILAR ENTITIES UNDER H.R.S. Ch. 269

SB 19 proposes to treat landlords in a way that is consistent with the way the term “public utility” is contemplated under existing law. Generally, the defined term “public utility” establishes

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org

55 Merchant Street 17th Floor • Honolulu, Hawai'i 96813 • 808-954-6142 • blueplanetfoundation.org

regulatory oversight for industries that serve the public at large, or operate where infrastructure or other barriers impose a de facto monopoly on the public. Neither of these characteristics are applicable to landlords. Existing provisions in H.R.S. § 269-1 sensibly carve out exceptions where these general characteristics are not met. For example, although “common carriers” are generally regulated as public utilities (dating to times when common carriers were typically trains, or ships, carrying large numbers of the public). Taxi cabs, however, are exempt. See H.R.S. 269-1(2)(B). Similarly, water carriers are exempt in situations where they enter into “private contracts” and do not operate “pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally.” H.R.S. § 269-1(2)(E). Landlords similarly enter into private contracts with their tenants. And as described below, tenants are protected in the context of those private agreements.

HAWAII’S LANDLORD TENANT CODE ALREADY PROVIDES PROTECTIONS LIKE THOSE APPLICABLE UNDER H.R.S. Ch. 269

In a third example of an exemption under the definition of “public utility,” water recyclers are not public utilities where they sell water to entities not covered by a “state or county service contract.” H.R.S. § 269-1(2)(J)(iv). To address the fact that these water recyclers are not regulated utilities, H.R.S. § 269-1 clarifies that “in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable.” *Id.* If SB 19 is passed, the same protections are already in place for tenants under the landlord-tenant code. H.R.S. § 521-42 states that a “landlord shall at all times during the tenancy . . . [m]aintain all electrical . . . facilities and appliances supplied by the landlord in good working order.” And in addition to numerous other protections for tenants, H.R.S. § 521-75 prohibits landlord from imposing any “unconscionable” conditions in rental agreements.

For all of these reasons, we urge you to forward SB 19 SD1. Thank you for this opportunity to testify.



CATHOLIC CHARITIES HOUSING DEVELOPMENT CORPORATION

House Committee on Energy and Environmental Protection
House Committee on Economic Development and Business
Tuesday, March 19, 2013 at 8:30 a.m.
State Capitol, Conference Room 325
SB19 Relating to Renewable Energy

Testimony in SUPPORT of SB19

Testimony of Edward Ontai, Executive Director, Catholic Charities Housing Development Corporation

Chair Lee, Vice Chair Thielen, and Committee Members of the House Committee on Energy and Environmental Protection
Chair Tsuji, Vice Chair Ward and Committee Members of the House Committee on Economic Development and Business

Catholic Charities Hawaii **supports** Senate SB19, the bill that exempts landlords and lessors who install renewable energy systems on their property and sells to their tenants and lessees from the definition of "public utility".

Catholic Charities Housing Development Corporation, incorporated as a 501(c)(3) in 1999 set on a course to own, develop, and manage real estate properties with the intent to provide affordable housing for the elderly, special needs individuals and other socially or economically disadvantaged persons and families in the State of Hawai'i. As a natural extension, Catholic Charities Housing Development Corporation has undertaken the development of affordable housing for the working poor and other vulnerable populations.

While we continue to strongly support SB19, the recent amendments made to SB19 SD1 need revisions. The first recent amendment restrictively, and unnecessarily, requires a single meter and single connection: **"in which the owner or lessor and the tenant are served by the same utility meter and service connection;"**

Individual meters are as prevalent as single meters for tenants because today they are responsible for the energy from the utility. Energy can be provided in this configuration without utilizing the electric utility's lines. The current language would prohibit this configuration from being included in this exemption. We offer this alternative language, which is more direct, to safeguard the utility from potential wheeling while not limiting the configurations for different properties:

PROPOSED LANGUAGE:

Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; and in which the owner or lessor and the tenant are served by the same utility meter and service connection; provided further that



such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;

Additionally, while SB19 includes another amendment, which to protect tenants by providing that the rate schedule shall be no greater than the rate charged per kilowatt hour by the electric utility. The rate allowed by the landlord should include all other relevant and applicable charges that the utility is allowed.

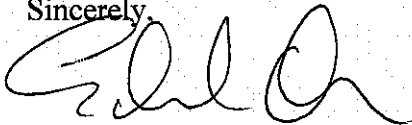
PROPOSED LANGUAGE:

provided further that the rate schedule charged to the lessee or tenant for the power generated by the renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour **plus all other relevant and applicable charges, including any and all energy, customer, and demand charges, and any applicable surcharges and adjustments charged** by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate shall under no circumstances be greater than the rate **and all other relevant and applicable charges** charged by the electric utility.

Given the state's aggressive clean energy goals, SB19 takes away a huge barrier that will increase distributed generation.

Thank you for the opportunity to testify in support on this important matter.

Sincerely,



Edward Ontai
Executive Director
Catholic Charities Housing Development Corporation



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 19, 2013, 8:30 A.M.
(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF SB 19 SD1 WITH PROPOSED AMENDMENTS

Aloha Chair Lee and members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* SB 19 SD1. This measure would allow a landowner to install renewable energy and distribute this power among tenants, thus removing a barrier towards more adoption of clean energy.

Programs similar to what is proposed have been very successful in encouraging the adoption of PV and hastening the transition to non-fossil sources. This measure potentially allows a *hui* of people to invest in renewable energy and take advantage of the benefits, even if they do not own a home.

This measure would provide a strong incentive for individuals and businesses to invest in the power plants of tomorrow (today).

Proposed Amendment. We are concerned that SD1 language would limit potential installations by requiring renewable energy systems to be limited to one meter and service connection. It would render configurations where individual meters and service connections, many which already exist, invalid under this exemption. We propose the following:

...Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; **Provided further that such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;**

Further, a lessor should be able to pass on rates charged by the utility. Proposed language is in bold:

...provided further that the rate schedule charged to the lessee or tenant for the power generated by the renewable energy system shall under no circumstances be greater than the rate charged per kilowatt hour **plus all other relevant and applicable charges, including any and all energy, customer, and demand charges, and any applicable surcharges and adjustments charged** by the electric utility and shall be established for the duration of the lease and that the lease agreement entered into by the lessee or tenant reflects such rate schedule and provides disclosure that the rate shall under no circumstances be greater than the rate **and all other relevant and applicable charges** charged by the electric utility.

Mahalo for the opportunity to testify.

House Committee on Energy and Environmental Protection
House Committee on Economic Development and Business
Tuesday, March 19, 2013 at 8:30 a.m.
State Capitol, Conference Room 325
SB19 Relating to Renewable Energy

Testimony in SUPPORT of SB19
Testimony of Jay Fidell, President, Think Tech Hawaii

Chair Lee, Vice Chair Thielen, and Committee Members of the House Committee on Energy and Environmental Protection
Chair Tsuji, Vice Chair Ward and Committee Members of the House Committee on Economic Development and Business

As a small nonprofit and a tenant, I **support** Senate SB19, the bill that exempts landlords and lessors who install renewable energy systems on their property and sells to their tenants and lessees from the definition of "public utility".

Today, renters and tenants are at an extreme disadvantage in living a sustainable lifestyle because landlords and lessors are not incented to invest in renewable energy systems for their properties. This bill will provide for a consistent application of an exemption that will take away any disincentives for the investor.

While we support SB19, tenants also have individual meters and not just share a single meter with their landlord. Therefore, we have serious concerns about the current version of SB19 SD1, which is restrictively requires a single meter and single connection: **"in which the owner or lessor and the tenant are served by the same utility meter and service connection;"**

PROPOSED LANGUAGE:

Provides, sells or transmits the power generated from that renewable energy system to an electric utility or to a lessee or tenant on the person's property where the renewable energy system is located; **provided further that such person does not use an electric utility's transmission or distribution lines to provide, sell or transmit power to lessee or tenant;**

Additionally, we support that SB19 includes appropriate provisions to protect tenants by providing that the rate schedule shall be no greater than the rate charged per kilowatt hour by the electric utility, We would like clarity as to what that rate includes.

This bill is a very strong step in the right direction to increase our distributed generation and provide tenants choices, previously left out of the benefits of renewable energy.

Thank you for the opportunity to testify in support on this important matter.

Sincerely,

Jay Fidell
President, Think Tech Hawaii

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 16, 2013 10:51 AM
To: EEPtestimony
Cc: lgeller@igc.org
Subject: Submitted testimony for SB19 on Mar 19, 2013 08:30AM

SB19

Submitted on: 3/16/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Geller	Individual	Support	No

Comments: The bill does not now cover condos that may install PV. Perhaps this could be added as an amendment. Also, devices used to re-sell electricity to tenants should meet industry-standard calibration requirements (typically ANSI C12.20 (0.2% Accuracy), but best to check with industry experts on the appropriate requirements--otherwise tenants are not being protected against accidental or intentional overcharges. Some other states have statutes regulating sub-metering equipment.

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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