

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

FEBRUARY 4, 2014
11:00 a.m.

MEASURE: H.B. No. 1999, Proposed H.D. 1

TITLE: Relating to Electric Utilities

Chair Lee and Members of the Committee:

DESCRIPTION:

This measure would convene a legislative utility oversight task force (“Utility Task Force”) for the purpose of reviewing existing franchises held by investor-owned electric public utilities in the State “to ensure that these utilities are adequately providing services that serve the public.” The Utility Task Force shall also seek input publicly, as well as from the Public Utilities Commission (“Commission”) and the Consumer Advocate, in the course of its review. In addition, the Utility Task Force shall reconvene every five years and report to the Legislature its findings and recommendations to the Legislature every five years beginning in 2015.

POSITION:

The issuance, modification, or revocation of an electric utility’s franchise is the prerogative of the Legislature. The Commission would like to offer the following comments for the Committee’s consideration.

COMMENTS:

The Commission has testified previously that a discussion related to major changes in the energy sector affecting the traditional electric utility service model is warranted.¹

¹See Testimony of Hermina Morita, Chair, Public Utilities Commission, Department of Budget and Finance of the State of Hawaii to the House Committee on

The basic terms of service under which electric utility companies operate are set forth in franchise agreements that are enacted through legislation.

As the regulation of public utilities evolved, a concept known as the “regulatory compact” was recognized. For a great many years, the regulatory compact was very straightforward. With respect to an electric utility, the regulatory compact required the utility to stand ready to provide all or the great majority of the electric service needs of all customers within its service territory. Stated differently, when the utility connected a new customer or when an existing customer purchased a new appliance, the electric utility was expected to have electric service available to meet those requirements “at the flip of a switch.” In return, the regulatory compact provided the electric company with the opportunity to earn a fair rate of return on and of the capital investment in electric plant necessary to stand ready to provide such service, and generally provided the utility with a monopoly to provide electric service within its service territory.

Over the past few years, the basis of the regulatory compact – that the utility provides all service requirements and that customers purchase all or most of their service requirements from the utility – has eroded, and continues to erode, dramatically. The proliferation of distributed generation, independent power producers, and other advancements in the energy sector have led to a far more complicated electric system than that which existed when Hawaii’s electric utility franchises were originally granted.² Today, customers need not take all of their electric service from the electric utility – they can generate some or most of their needs through the use of such technologies as solar panels. Nevertheless, at present, the electric utility is still required to stand ready to provide all of their service requirements when, for various reasons, they are unable to generate electricity from these intermittent sources. Thus, the regulatory compact has changed dramatically from the customers’ viewpoint, while the electric utility is still required to provide all service needs “at the flip of the switch.” This is true even though the electric utility may not recover the costs of providing that service, because the plant

Energy & Environmental Protection, H.B. No. 1999, Relating to Electric Utilities, January 30, 2014.

²Since 2005, the Legislature has increased the number of statutory exceptions to the definition of “public utility” under HRS § 269-1 at least four times, each addition encompassing a new exception for an energy-related operation. See Act 164, Session Laws of Hawaii 2005; see also Act 156, Session Laws of Hawaii 2009; see also Act 9, Session Laws of Hawaii 2011; see also Act 261, Session Laws of Hawaii 2013.

it built was designed to meet service requirements that no longer exist as more and more customers explore other ways of obtaining their electric service. In light of the changing landscape and complexity of the modern electric system, the Commission reiterates its belief that a review of the fundamental electric utility-customer relationship is warranted.

The Commission would like to caution the Legislature that if it initiates a review of an electric utility franchise, it must ensure that (1) proper resources are budgeted and allocated to obtain the required expertise on the subject matter, and (2) that the investigative process that is established is based on a framework that clearly establishes for all participants the elements of the franchise that will be reviewed, the criteria that will be used to evaluate those elements, and the procedures to be followed in making the evaluation. The Legislature also needs to be mindful that a review of a franchise without clarifying the associated review process and evaluation criteria could create uncertainty affecting the electric utility's financial position.

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

Thank you for the opportunity to testify on this measure.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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TO THE HOUSE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

TUESDAY, FEBRUARY 4, 2014
11:00 A.M.

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

HOUSE BILL NO. 1999, PROPOSED H.D. 1 - RELATING TO ELECTRIC UTILITIES

DESCRIPTION:

This measure seeks to establish stringent licensing procedures for any person intending to construct, operate, acquire an electric utility or extend an existing electric utility outside its designated area.

POSITION:

The Division of Consumer Advocacy supports the intent of H.B. No. 1999, Proposed H.D. 1 but offers the following comments.

COMMENTS:

The Consumer Advocate appreciates the intent of the proposed H.D.1, which is proposing to regularly evaluate investor-owned utility companies to “ensure that these utilities are adequately providing services that serve the public.” All utility companies should be held accountable for their duty to provide safe, reliable, high quality utility services at affordable rates.

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

The Consumer Advocate appreciates the legislature’s desire to hold the HECO Companies accountable to their franchise by creating this task force, although much of the work of the task force may be duplicative of what the Public Utilities Commission is already doing. The Consumer Advocate will, however, provide the appropriate support to the task force upon request.

Thank you for this opportunity to testify.

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENT**

H.B. No. 1999, Proposed H.D.1

Relating to Electric Utilities

Tuesday, February 4, 2014

11:00 am

State Capitol, Conference Room 325

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

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

My name is Kevin Katsura and I am testifying on behalf of Hawaiian Electric Company and its subsidiary utilities Maui Electric Company and Hawai'i Electric Light Company in opposition to H.B. 1999, Proposed H.D. 1.

This proposed bill establishes a legislative utility oversight task force to conduct a performance review of the Hawaiian Electric Companies. While it is the legislature's prerogative to review the utilities' franchises, utility performance is already extensively reviewed by the Public Utilities Commission ("PUC").

Utility performance is already extensively reviewed by the PUC through the powers granted to it by the legislature (HRS §269-6 - PUC's general powers and duties; HRS §269-7 investigative powers; and HRS §269-15 power to institute proceedings to enforce chapter). In addition, the Consumer Advocate is a party to all of the Commission proceedings by statute and conducts an in-depth review and evaluation of the Companies' submissions. The Commission monitors the Companies' performance on an on-going basis, as the Companies file more than 400 compliance and monitoring reports a year. These reports include Company plans as well as performance and progress in implementing programs, projects and operations (e.g., Annual Service Reliability Reports, Capital Budget Reports, Capital Project Status and Completion Reports, Renewable Portfolio Standards ("RPS") Report, Adequacy of Supply, Integrated Resource Plans ("IRP") and 5-Year Action Plans, Monthly and Annual Financial Statements).

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

- Rate Cases –Company rate case filings provide very comprehensive information. The Companies provide estimates for expense and capital expenditures in the test year for all of their regulated operations. The filings also provide very detailed information on their operations to support their estimates. The Commission and the Consumer Advocate conduct an in-depth review of this information and require the Companies to respond to numerous information requests. In the Hawaiian Electric 2011 rate case, the Company responded to more than 500 information requests (not counting subparts).
- Reliability Standards (“RSWG”) (Docket No. 2011-0206) – the Commission is examining the implementation of reliability standards for the service territories of the Hawaiian Electric Companies
- Decoupling Investigation (Docket No. 2013-0141) – In this proceeding, one of the things that the Commission is addressing is whether metrics should be determined to measure utility performance and what metrics would be appropriate.
- IRP (Docket No. 2012-0036) – the Commission is evaluating the Companies’ most recently filed IRP plans, as it does for each cycle of IRP plans.

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

Furthermore, a review of a utility franchise should at least be consistent with the review of a certificate of public convenience and necessity under Hawaii Revised Statutes ("HRS"), to review whether the utility is "in wil[l]ful violation of any of the provisions of HRS, chapter 269 or with any lawful order or rule of the commission adopted thereunder, or with any term, condition, or limitation of the" franchise.

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

(1) The franchises provided to the Hawaiian Electric Companies are not exclusive and do not create a monopoly over the provision of service to customers;

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

(3) The Companies also are fully aware that the price of electricity in Hawai'i has increased significantly in the past several years, driven largely by higher fuel oil prices, and customers expect the Companies to develop and implement plans that will help lower their electricity bills. Thus, the Hawaiian Electric Companies' efforts to acquire additional lower cost renewable energy generation through a portfolio of acquisition methods, with the objectives of meeting and exceeding Hawai'i's mandated RPS, are targeted at reducing the cost of electricity for their customers, while continuing to reduce their reliance on fossil fuels; and

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

Thank you for this opportunity to testify.



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 4, 2014, 11:00 A.M.
(Testimony is 3 page long)

**TESTIMONY IN SUPPORT OF HB 1999 PROPOSED HD1
WITH PROPOSED AMENDMENTS**

Aloha Chair Lee and Members of the Committees:

The Sierra Club, Hawaii Chapter, with over 12,000 dues paying members and supporters statewide, *supports* HB 1999 HD1. This measure asserts legislative control over the licensing of franchises held by the current utilities.

The rise of distributed renewable energy is causing a national discussion about the future of the utility business model. The industry's own think tank, the Edison Electric Institute, recognized this with a white paper "Disruptive Challenges: Financial Implications and Strategic Responses to a Changing Retail Electric Business". Vigorous debates about the future of the utility are occurring in many states, including Arizona and California.

While we firmly believe there is a role for an electrical utility in Hawai'i's future, the business model of yesterday may no longer work for tomorrow. This measure gives the Legislature the opportunity to reexamine the utility business structure and longterm plan and ascertain if there may be better entities that can serve the needs of Hawai'i's residents. We suggest it may be worthwhile to also direct the PUC to investigate and report back to the Legislative Task Force.

The utility model is a regulatory compact. If our existing utilities are not adequately serving Hawai'i's customers, this legislature has an obligation to pursue other options.

Mahalo for the opportunity to testify.

PROPOSED AMENDMENTS:

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to part VII to be appropriately designated and to read as follows:

"§269 Utility Business Models for the Hawaii energy

markets. (a) The public utilities commission shall investigate various types of business models for electric utilities, including existing models in Hawaii and the United States energy markets, or other nations as appropriate.

(b) In investigating utility business models, the public utilities commission may consider:

- (1) Existing published analysis and articles;
- (2) Different models being employed, such as municipalities, cooperatives, regional transmission organizations, among others;
- (3) The potential impact of continuing decreases in the cost of self-generation of electricity;
- (4) The potential impact of significantly lower cost of electricity and energy storage;
- (5) The origins of the regulated grid and basis for that model;
- (6) Case studies of transformation or distressed business models in other service areas, such as Marin County, California; Arizona, Boulder, Colorado, and others that the public utilities commission finds instructive;

(7) Other issues the public utilities commission deems appropriate.

(c) The public utilities commission shall provide a report to the legislative utility oversight task force by August 1, 2014.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

HB1999

Submitted on: 1/31/2014

Testimony for EEP on Feb 4, 2014 11:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
sherrian witt	Individual	Oppose	No

Comments:

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House Committee on Energy and Environmental Protection

RE: HB1999 HD1

February 4, 2014 11 a.m., Room 325

Aloha Chair Lee and Members of the Committee:

As a member of the rate-paying public, I support this measure and offer the following amendment (underlined below) to section (c) for your consideration:

“(c) The committee shall meet publicly AT LEAST ONCE ON EACH ISLAND SERVED BY AN INVESTOR-OWNED UTILITY for input and recommendations regarding franchises held by investor-owned electric public utilities.”

Mahalo for this opportunity to testify.

Sally Kaye
511 Ilima Ave.
Lānaʻi City, HI 96763

HB1999

Submitted on: 2/3/2014

Testimony for EEP on Feb 4, 2014 11:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Peggy Lucas	Individual	Support	No

Comments: I support this measure and I feel that the committee's public meetings are essential and that they should be held on the islands being served by the utility.

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HB1999

Submitted on: 2/3/2014

Testimony for EEP on Feb 4, 2014 11:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Bond	Individual	Support	No

Comments: It is very important that the Energy and Environmental Protection Committee meet at least once per year on Molokai, Lanai, and every island that is served by an investor-owned utility.

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