

SB 2642

Measure Title: RELATING TO THE PUBLIC UTILITIES COMMISSION.

Report Title: Public Utilities; Occupancy Verification

Description: Requires verification of legal ownership or legal occupancy of a property prior to the initiation of new public utility service.

Companion:

Package: None

Current Referral: CPN

Introducer(s): RUDERMAN, Chun Oakland



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

JO ANN UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

THURSDAY, FEBRUARY 20, 2014
10:00 A.M.

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

SENATE BILL NO. 2642 - RELATING TO THE PUBLIC UTILITIES COMMISSION

DESCRIPTION:

This measure proposes to require verification of legal ownership or legal occupancy of a property prior to the initiation of new public utility service.

POSITION:

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

COMMENTS:

The Consumer Advocate understands that the intent of this measure is meant to discourage unauthorized individuals from living in and/or using vacant structures. The Consumer Advocate further understands that it is assumed that, without utility service, these unauthorized individuals may determine that it is undesirable to remain in or use vacant structures.

The Consumer Advocate notes that the proposed requirement may add additional time and procedural measures, as well as associated costs, before utility companies can provide service to bona fide customers. There may also be some unintended consequences of the proposal. The Consumer Advocate notes that the underlying problems (e.g., squatting) are not utility regulation problems. The Consumer Advocate is unaware of any statistics regarding unauthorized individuals' effect on utilities' bad debt expense, but supports the intent on the measure assuming that:

- the incremental costs to implement utility procedures to effectuate the proposed legislative language will not be significant;
- any increase in utility costs will be offset by decreases in other costs (e.g., reduced bad debt expense, reduced service calls) such that general ratepayers will not experience any kind of increase associated with the measures necessary to effectuate the proposed measure; and
- the incremental time necessary to authorize service to bona fide customers does not significantly increase.

If experience with these procedures suggests that net costs may increase or that the required time to verify title, valid lease, etc. may result in a longer service time for the majority of customers, there should be some flexibility allowed to mitigate the impacts of this measure on the general customer base.

Thank you for this opportunity to testify.

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

FEBRUARY 20, 2014
10:00 a.m.

MEASURE: S.B. No. 2642

TITLE: Relating to the Public Utilities Commission

Chair Baker and Members of the Committee:

DESCRIPTION:

S.B. No. 2642 prohibits all public utilities from providing services to any person or entity unless the person or entity receiving service has verified they are "the legal owner or legal occupant of the property or authorized agent occupying the property."

POSITION:

The Public Utilities Commission ("Commission") supports the intent of this measure to ensure that utility services are provided to legitimately occupied properties. However, the Commission has concerns with this measure, and would like to offer the following comments for the Committee's consideration.

COMMENTS:

This measure would place a requirement on all public utilities to verify legal ownership and/or occupancy status of a property before the occupant receives utility services. This measure is unclear whether only certain utilities are required to verify ownership/occupancy status, given not all public utilities link the service they provide to real estate ownership and/or occupancy (e.g., motor carrier service, water carrier or interisland cargo service).

In the context of electric utility services, the Commission has received communications from Senator Russell E. Ruderman that properties within the Senator's district¹ have been occupied by persons other than the legal owners/occupants/authorized agents. The "unauthorized" occupants were able to apply for and receive electricity service.

Attached is a copy of a September 10, 2013 response from Hawaii Electric Light Company, Inc. ("HELCO") to Senator Ruderman on this issue. The most relevant comments regarding potential legal issues and challenges to require the electric utility to verify "legal" occupancy are found on page 2 of this correspondence.

The Commission agrees with HELCO that the verification of ownership and/or occupancy of a property is a legal determination best left to the courts. A verification requirement, as proposed in this measure, would likely result in a significant burden being placed on new utility customers statewide to verify ownership/occupancy status, and would also cause delays in initiating utility service. As suggested by HELCO in its letter, the best approach would have the utility cooperate with the proper authorities after the unauthorized occupants are verified.

Thank you for the opportunity to testify on this measure.

¹Senator Russell E. Ruderman represents State Senate District No. 2, which covers Puna and Ka'ū.



Jay M. Ignacio, P.E.
President

September 10, 2013

Russell E. Ruderman, Senator District #2
Hawaii State Senate
415 S. Beretania Street. Room #217
Honolulu, HI 96813

Dear Senator Ruderman,

Subject: Service to Foreclosed Homes

Thank you for the opportunity to respond to your concerns of illegal occupants in foreclosed homes with electrical service.

As a regulated utility, Hawaii Electric Light provides service to our customers in accordance with the rules in its tariffs. Rule No. 3.A ("Application for Service") requires applicants to provide the following information when applying for service:

1. Name of applicant
2. Location of premises to be served
3. Date applicant will be ready for service
4. Whether the premises have been heretofore supplied
5. Purpose for which service is to be used, with description of equipment KW or HP capacity
6. Whether applicant is owner, agent or tenant of premises
7. Mailing address
8. Rate Schedule desired if optional rate schedule is available
9. Business address and occupation
10. Reference as requested
11. Such other information as the Company may reasonably require

Rule No. 3.A also requires the applicant to establish credit in accordance with Rule No. 5 ("Establishment and Re-establishment of Credit").

The above listed information required by the Company's tariffs provides the information necessary for the utility to start and manage customers' accounts without incident in the majority of cases. However, as your letter states, there are instances where the applicant for electric service does not have the legal authority to occupy the dwelling. It may appear that a simple solution would be to have the utility independently investigate and verify that the applicant is the legal tenant of the property. We have looked into changing our process to add this verification requirement and have found it to be more complex than it appears.

Mr. Russell E. Ruderman, Senator District #2
September 10, 2013
Page 2 of 2

Our evaluation has determined that it would be difficult and time-consuming for the utility to perform this verification of legal tenancy and it would place an additional burden on the majority of applicants who apply for service as legal tenants.

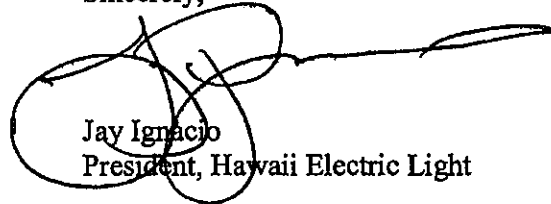
For example, the question whether a particular applicant has a right to occupy the premises, or even who the legal property owner is, often requires a legal determination. Our customer service representatives are not equipped to determine whether an applicant's representation that he or she has a legal right to occupy the premises is correct or not, let alone resolve a dispute between a third party and the occupant as to whether the applicant has a legal right to occupy the premises. We feel those determinations are better left to the courts.

In addition, requiring all applicants to provide written documentation or otherwise demonstrate that they have a legal right to occupy a property or to require Hawaii Electric Light to first verify with the property owner of record that the applicant has permission to obtain electrical service would significantly burden and delay the provision of service to the vast majority of customers who are legal tenants. To give an idea of the impact of such a requirement, Hawaii Electric Light receives on average 900-1,000 requests for service or reconnection a month for which the majority are provided service within one to two working days. Adding this legal verification would delay connections of services by many days or even weeks.

Having a safe neighborhood is a concern to all of us. If the neighboring residents suspect illegal activities occurring at a particular property, we are willing to work with proper authorities to address the situation. With proper authorization we are able to disconnect electric service to an illegal tenant. In addition we are willing to meet with you, members of your staff or other members of our community to explore other ideas or methods to address the situation. There may be better methods to verify legal tenancy that we are overlooking or not aware of which others may be able to help us with.

I hope this explanation is helpful. Should you have any questions or would like to further explore this matter with us, please contact me at 969-0124.

Sincerely,



Jay Ignacio
President, Hawaii Electric Light

cc: Ms. Natalie Epenesa –Customer Service Department Manager, Hawaii Electric Light
Mr. David Kurohara - Customer Service Department Supervisor, Hawaii Electric Light



SB 2642

RELATING TO THE PUBLIC UTILITIES COMMISSION

**KEN HIRAKI
VICE-PRESIDENT-GOVERNMENT AND COMMUNITY AFFAIRS
HAWAIIAN TELCOM**

February 20, 2014

Chair Baker and members of the Senate Commerce and Consumer Protection Committee.

I am Ken Hiraki testifying on behalf of Hawaiian Telcom. The purpose of this bill is to require a public utility prior to initiating service to verify legal ownership or legal occupancy of the party requesting a regulated service by means of a deed, rental or lease agreement or other reliable means of verification.

While the overall goal is well-intended, Hawaiian Telcom respectfully requests an exemption from the verification requirements of this measure. Passage of SB 2642 unfairly discriminates against Hawaiian Telcom because the proposed requirements apply to our company but do not apply to other telecommunication service providers such as wireless, cable and VoIP, which are either unregulated or do not face the same level of regulatory oversight that our company currently faces.

Dramatic technological changes within our industry have created a telecommunications marketplace in Hawaii that is fully competitive with an array telecommunication services (wireless, VoIP, cable) for consumers to choose from as alternatives to the traditional landline. We believe the key to providing consumers with quality service at affordable prices is to promote fair competition with consistent regulatory treatment of all competitors.

Passage of this measure will reverse some of the recent legislative gains made by this committee in providing greater regulatory parity for all telecommunication providers. SB 2642 will unbalance the regulatory playing field by requiring Hawaiian Telcom to verify legal documentation of ownership for our customers while not requiring the same regulatory requirement for our competitors. Additional documentation requirements may result in frustration, delays and additional costs for our customers who may then simply choose to switch service to our competitors rather than comply with the additional paperwork reserved only for Hawaiian Telcom customers. As we mentioned before, consistent regulatory treatment is the key to maintaining a healthy competitive telecommunications marketplace.

Finally, we are not aware of any incident involving our company where verification of legal ownership has been an issue. With respect to Hawaiian Telcom, SB 2642 may be an example of a solution in search of a problem. If the Committee in its wisdom decides to move this measure forward, we respectfully request the following amendment:

Following line 11, please insert the following language below:

"All persons performing communications or information services within the State under a franchise or charter granted by the State which is regulated by the public utilities commission, shall be exempt from the provisions of this chapter."

Thank you for the opportunity to provide testimony. I am available to answer any questions from committee members.

**Testimony before the Senate Committee On
Commerce and Consumer Protection**

**By Enrique Che
Manager, Customer Service
Hawaiian Electric Company, Inc.**

February 20, 2014; 10:00 am

SB 2642 – Relating to the Public Utilities Commission

Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

My name is Enrique Che and I am testifying on behalf of Hawaiian Electric Company and its subsidiaries Maui Electric Company and Hawaii Electric Light Company. We are testifying in opposition to this bill.

As a regulated utility, Hawaiian Electric Company and its subsidiaries Maui Electric Company and Hawaii Electric Light Company, provide service to our customers in accordance with the rules in its tariffs. Rule No. 3.A ("Application for Service") requires applicants to provide the following information when applying for service:

1. Name of applicant
2. Location of premises to be served
3. Date applicant will be ready for service
4. Whether the premises have been heretofore supplied
5. Purpose for which service is to be used, with description of equipment KW or HP capacity
6. Whether applicant is owner, agent or tenant of premises
7. Mailing address
8. Rate Schedule desired if optional rate schedule is available
9. Business address and occupation
10. Reference as requested
11. Such other information as the Company may reasonably require

Rule No. 3. A also requires the applicant to establish credit in accordance with Rule No. 5 ("Establishment and Re-establishment of Credit").

The above listed information required by the Company's tariffs provides the information necessary for the utility to start and manage customers' accounts without incident in the majority of cases. However, there are instances where the applicant for electric service

does not have the legal authority to occupy the dwelling. It may appear that a simple solution would be to have the utility independently investigate and verify that the applicant is the legal tenant of the property. We have looked into changing our process to add this verification requirement and have found it to be more complex than it appears.

Our evaluation has determined that it would be difficult and time-consuming for the utility to perform this verification of legal tenancy and it would place an additional burden on the majority of applicants who apply for service as legal tenants.

For example, the question whether a particular applicant has a right to occupy the premises, or even who the legal property owner is, often requires a legal determination. Our customer service representatives are not equipped to determine whether an applicant's representation that he or she has a legal right to occupy the premises is correct or not, let alone resolve a dispute between a third party and the occupant as to whether the applicant has a legal right to occupy the premises. We feel those determinations are better left to the courts.

In addition, requiring all applicants to provide written documentation or otherwise demonstrate that they have a legal right to occupy a property or to require the Hawaiian Electric Companies to first verify with the property owner of record that the applicant has permission to obtain electrical service would significantly burden and delay the provision of service to the vast majority of customers who are legal tenants. To give an idea of the impact of such a requirement, the Hawaiian Electric Companies receive on average 7,000 to 9,000 requests for service or reconnection a month for which the majority are provided service within one to two working days. Adding the legal verification would delay connections of services by many days or even weeks.

Having safe neighborhoods is a concern to all of us. If neighboring residents suspect illegal activities occurring at a particular property, we are willing to work with proper authorities to address the situation. With proper authorization we are able to disconnect electrical service to an illegal tenant. In addition we are willing to meet with community members to explore other ideas or methods to address the situation. There may be better methods to verify legal tenancy that we are overlooking or not aware of which others may be able to help us with.

Thank you for the opportunity to testify on this matter.