
A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The public utilities commission issued Order
2 No. 32695, at the initiation of the Hawaiian Electric Company,
3 Inc., and NextEra, Inc., merger proceeding (Docket No. 2015-
4 0022), which states: "Since HRS §269-19 does not contain
5 specific criteria or standards for the commission to consider in
6 the transfer or assignment of a franchise, the commission
7 historically, in its review of applications for the sale of
8 public utility assets and the transfers of certificates of
9 public convenience and necessity (CPCN) and franchises, pursuant
10 to HRS §269-19, has utilized the same standards of review found
11 at HRS §269-7.5 for guidance, to wit, that the applicant is
12 "fit, willing, and able properly to 'perform the service
13 proposed.'"

14 The consumer advocate noted that other mergers of major
15 utilities have reached settlement agreements stipulating that a
16 "substantial net benefit" exists for the merger.



1 The purpose of this Act is to adopt "substantial net
2 benefit" as the standard for a transfer or assignment of a
3 franchise for public utilities.

4 SECTION 2. Section 269-19, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§269-19 Merger and consolidation of public utilities.**

7 (a) Except as provided in subsection (b), no public utility
8 shall sell, lease, assign, mortgage, or otherwise dispose of or
9 encumber the whole or any part of its road, line, plant, system,
10 or other property necessary or useful in the performance of its
11 duties to the public, or any franchise or permit, or any right
12 thereunder, nor by any means; directly or indirectly, merge or
13 consolidate with any other public utility without first having
14 secured from the public utilities commission an order
15 authorizing it so to do. Every such sale, lease, assignment,
16 mortgage, disposition, encumbrance, merger, or consolidation,
17 made other than in accordance with the order of the commission
18 shall be void.

19 (b) A public utility, under circumstances that it deems
20 exigent and in its judgment require a response that rapidly
21 restores one of its customers to normal, or near normal,



1 operating status in order to prevent serious disruption of
 2 essential public services, or avoid serious risk to public
 3 safety, or to mitigate severe economic losses to that customer,
 4 may transfer, assign, or otherwise dispose of its property
 5 without prior approval from the public utilities commission as
 6 required in subsection (a); provided that in so doing:

7 (1) The public utility does not unduly hinder or degrade
 8 the public utility's operation with respect to its
 9 services or other customers;

10 (2) The public utility is duly compensated for its
 11 property; and

12 (3) The public utility reports in detail to the public
 13 utilities commission within thirty days of any such
 14 action unless otherwise approved by the public
 15 utilities commission for good cause shown.

16 For purposes of this subsection, "property" does not
 17 include real property.

18 (c) The specific standard for the public utilities
 19 commission to consider in the transfer or assignment of a
 20 franchise shall be substantial net benefit. The commission may
 21 establish reasonable criteria for specific mergers."



H.B. NO. 2561

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 26 2016



H.B. NO. 2567

Report Title:

Public Utilities Commission; Merger

Description:

Establishes "substantial net benefit" as the Public Utilities Commission's standard for a transfer or assignment of a franchise.

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