

TESTIMONY OF RANDY IWASE  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

February 24, 2016  
2:05 PM

**MEASURE:** H.B. No. 2081, H.D. 1  
**TITLE:** RELATING TO ENERGY

Chair McKelvey and Members of the Committee:

**DESCRIPTION:**

This measure creates a new part in Chapter 269, Hawaii Revised Statutes, which details and establishes a process through which State or County agencies can determine that a “public purpose project” is in the public interest and formulate a proposal for such a project. This measure also requires the Public Utilities Commission (“Commission”), by January 1, 2017, to establish a simplified regulatory process and procurement mechanism “for the commission’s review and approval of public purpose projects [ . . . ]”

**POSITION:**

The Commission offers the following comments for the Committee’s consideration.

**COMMENTS:**

The Commission understands the intent to establish a simplified regulatory process to facilitate the consideration of projects which are determined to be in the public interest by a public agency. However, the Commission notes that, as currently written, there are a number of provisions in the measure which may be problematic.

For example, the measure currently defines a public purpose project as “a project that is in the public interest as determined by an agency.” This definition does not limit the types of projects that could be covered by this new process. This lack of clarity greatly expands the applicability of this measure and could lead to unintended consequences.

The measure also requires that a public utility prepare a feasibility report within 90 days of notice that an agency intends to propose a public purpose project. However the measure does not require the proposing agency to provide the utility with any details on which they could base their feasibility report. A report analyzing the feasibility of a project would be inappropriate without the proper level of detail to inform the report, especially if the cost of the feasibility reports is to be passed on to ratepayers.

The Commission also has concerns with Section 269-C of this measure which requires that the Commission, by January 1, 2017, “establish a simplified regulatory process and procurement mechanism for the commission’s review and approval of public purpose projects [ . . .]” The Commission notes that the language in this section appears to require that the Commission establish a process and procurement mechanism to necessarily approve public purpose projects. The Commission notes that, any process established by the Commission should allow the Commission the discretion and flexibility to review a project and then make a determination as to whether that project should be approved. Furthermore, the establishment of a simplified regulatory process and procurement mechanism, as required by this measure, may require the Commission to undertake rulemaking pursuant to Chapter 91, HRS. Given the Commission’s limited resources and other important matters currently before the Commission, a January 1, 2017 deadline may be difficult to meet.

Thank you for the opportunity to testify on this measure.

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE**

**H.B. No. 2081, HD.1**

**Relating to Energy**

Wednesday, February 24, 2016

2:05 pm

State Capitol, Conference Room 325

Kevin M. Katsura

Assistant Deputy General Counsel (Regulatory), Legal Department  
Hawaiian Electric Company, Inc.

Chair McKelvey, Vice Chair Woodson, 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. 2081, H.D.1.

This bill allows any state or county board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, to propose a "public purpose project." "Public purpose project" is defined broadly as in the public interest and the agency proposing the project makes its own determination. There is no limit to size, scope, scale, or location. This bill also proposes to minimize the required information submitted to the PUC to make a determination whether it is feasible, has definite benefits in Hawai'i, and is in the public interest and creates an unrealistic regulatory schedule that transfers additional costs and expense to the utility and its customers.

The agency proposing the project is responsible for determining for itself if their own project is in the public interest. There is no limit as to location, size, scope, or scale of a particular project. However, the utilities are asked to prepare a "feasibility report" within 90 days only having conferred with the agency. This report is the equivalent of an Interconnection Requirements Study ("IRS") which requires

much more detail about a project than this bill requires. An effective IRS completed by the utility includes, among other things, power systems analysis and identification of equipment, costs, and schedule to evaluate the upgrades necessary to safely and reliability interconnect the proposed Project into the Hawaiian Electric System. In order to conduct the IRS, we would need, among other things, single line diagrams, equipment details, performance capabilities and associated models. The cost of the study is to be borne by our customers instead of the developer as currently done. The range of cost for an IRS is \$100,000 to \$200,000. Rule 14H already provides a process to govern the interconnection review for distribution level projects, and Rule 19 has guidelines for an IRS under a Request for Proposal.

Under this bill, the agency is required to provide minimal information on the location, brief description, the primary energy source of the facility, the primary energy source used by the facility, capacity, public benefit; proposed rates; and feasibility of the project and does not provide a vehicle for discovery or enforcement by the PUC over the petitioning agency. This bill also limits the time for the PUC and parties to fully understand the costs and benefits of a proposed project and whether the project is in the public interest.

In Power Purchase Agreement Applications we provide the PUC: performance requirements, design, construction and interconnection cost details, and a schedule of milestones to approve the contract, find the purchase energy charges to be reasonable; and find the terms and conditions of the PPA are prudent and in the public interest. These contractual terms are binding on the developer. Additionally, in fuel supply contract applications we provide the PUC with all terms and conditions and a detailed explanation of our competitive bidding process to ensure we have obtained a fair market price.

In Hawai'i, there's no extension cord to the mainland. Unlike California and many other places we're compared to, we can't plug into the mainland grid, either to buy or sell electricity to neighboring utilities and for reliability. As has been noted publicly the Companies' grids have limited capacity. Filing this capacity with projects that are not properly vetted and which may be more expensive than other forms of generation may not be in the best interest of the Companies' customers and may cause electricity rates to rise. We believe the current methods of procurement have been effective.

Accordingly, the Hawaiian Electric Companies oppose H.B. 2076, H.D.1.

Thank you for this opportunity to testify.



COLLEGE OF SOCIAL SCIENCES  
**HAWAII ENERGY POLICY FORUM**  
UNIVERSITY OF HAWAI'I AT MĀNOA

**Hawaii Energy Policy Forum**

Jeanne Schultz Afuvai, Hawaii Inst. for Public Affairs  
Karlie Asato, Hawaii Government Employees Assn  
Joseph Boivin, Hawaii Gas  
Warren Bollmeier, Hawaii Renewable Energy Alliance  
Michael Brittain, IBEW, Local Union 1260  
Albert Chee, Chevron  
Elizabeth Cole, The Kohala Center  
Kyle Datta, Ulupono Initiative  
Mitch Ewan, UH Hawaii Natural Energy Institute  
Jay Fidell, ThinkTech Hawaii  
Carl Freedman, Haiku Design & Analysis  
Matthias Fripp, REIS at University of Hawaii  
Ford Fuchigami, Hawaii Dept of Transportation  
Mark Glick, Hawaii State Energy Office, DBEDT  
Justin Gruenstein, City & County of Honolulu  
Dale Hahn, Ofc of US Senator Brian Schatz  
Michael Hamnett, SSRI at University of Hawaii  
Senator Lorraine Inouye, Hawaii State Legislature  
Randy Iwase, Public Utilities Commission  
Ashley Kaono, Ofc of US Representative Tulsi Gabbard  
Jim Kelly, Kauai Island Utility Cooperative  
Darren Kimura, Energy Industries  
Kelly King, Sustainable Biodiesel Alliance  
Kal Kobayashi, Maui County Energy Office  
Representative Chris Lee, Hawaii State Legislature  
Gladys Marrone, Building Industry Assn of Hawaii  
Stephen Meder, UH Facilities and Planning  
Hermina Morita, Energy Dynamics  
Sharon Moriawaki, UH Public Policy Center  
Tim O'Connell, US Dept of Agriculture  
Jeffrey Ono, Division of Consumer Advocacy, DCCA  
Stan Osserman, HCATT  
Darren Pai, Hawaiian Electric Companies  
Melissa Pavlicek, Hawaii Public Policy Advocates  
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Cynthia Rezentes, Ofc of US Representative Mark Takai  
Rick Rocheleau, UH Hawaii Natural Energy Institute  
Will Rolston, Hawaii County, Research & Development  
Riley Saito, SunPower Systems  
Scott Seu, Hawaiian Electric Companies  
Joelle Simonpietri, US Pacific Command Energy Ofc  
H. Ray Starling, Hawaii Energy  
Ben Sullivan, Kauai County  
Lance Tanaka, Par Hawaii, Inc.  
Maria Tome, Public Utilities Commission  
Alan Yamamoto, Ofc of US Senator Mazie Hirono

Testimony of the  
Hawaii Energy Policy Forum  
Before the

House Committee on Consumer Protection and Commerce  
Wednesday, February 24, 2016 at 2:05 pm in Conference Room 325

**In Opposition of HB 2081 HD1, Relating to Energy**

Chair McKelvey, Vice-Chair Woodson, and Members of the Committee,

The Hawaii Energy Policy Forum (“HEPF”), created in 2002, is comprised of over 40 representatives from Hawaii’s electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. Our vision, mission and comprehensive “10 Point Action Plan” guide us in moving Hawaii toward its preferred energy goals. The Forum recommends that we oppose this bill. Below is our recommended testimony in opposition:

HB 2081 HD1 authorizes public agencies to initiate public purpose projects through which a public utility will purchase fuel or electricity.

The HEPF opposes the bill because it is vague and ambiguous and also not necessary.

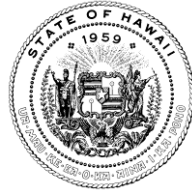
As pointed out by the Consumer Advocate in its testimony in the House Committee on Energy and Environmental Protection, the Hawaii Public Utilities Commission (“PUC”) already has the authority to determine if a project, whether privately or publicly developed, is in the public interest as it relates to Hawai‘i’s electric system.

It should be noted that a project may be in the public interest by serving a need and a purpose such as wastewater treatment. On the other hand, such a project may not be in the electricity ratepayer/public interest if the power purchase price is not competitive or the project fails to cost-effectively bring value to the Hawaii electric system. Therefore, the public utility and electricity ratepayer should not be placed in a position to bear the burden of an overall uneconomic project built in the “public interest” for a purpose other than electricity generation or ancillary services to be provided for the electric system. Under its existing authority, the PUC can adequately address and weigh the cost and benefits of these types of multi-purpose public projects.

For the foregoing reasons, the HEPF opposes HB2081 HD1 and recommends that it be held.

*This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies.*

**LATE**



DAVID Y. IGE  
GOVERNOR  
  
SHAN S. TSUTSUI  
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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

WEDNESDAY, FEBRUARY 24, 2016  
2:05 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF  
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER  
AFFAIRS, TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. HB 2081, H.D. 1 - RELATING TO ENERGY

DESCRIPTION:

This measure proposes to authorize public agencies to initiate public purpose projects through which a public utility will purchase fuel or electricity, and it establishes procedures for the Public Utilities Commission ("PUC") to review these public purpose projects.

POSITION:

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

COMMENTS:

The PUC is responsible for determining whether any proposed project for electricity generation is in the public interest. This determination requires the PUC to consider a broad spectrum of factors, including the capacity needs of the utility, whether the project contributes to the Renewable Portfolio Standards, costs and risk to the utility and the consumer, economic externalities and community interests. As amended, this bill no longer prescribes the exact procurement and implementation processes for public purpose projects, but rather directs the PUC to formulate those procurement and implementation processes on a tight timetable. This proposed PUC input notwithstanding, however, the bill still takes the PUC's responsibility for determining

which energy projects are in the public interest and places it with the public agency. The determination of whether a public utility is entitled to cost recovery should lie solely with the PUC to avoid inconsistent decisions that create greater risk to the utility.

If a public agency or potential supplier of power feels that a utility is unreasonably refusing to negotiate a power purchase agreement or fuel supply contract, then the potential supplier already has recourse to approach the PUC directly and ask it to order the utility, pursuant to Hawaii Revised Statutes Chapter 269-27.2, to negotiate an agreement with the supplier and submit the agreement to the PUC for review. In the event that a rate cannot be agreed upon by the potential supplier of power and the utility, then the rate shall be as prescribed by the PUC. The affected public agency always has the ability to seek intervention in this process.

Thank you for this opportunity to testify.