

HB2567 HD1

Measure Title: RELATING TO THE PUBLIC UTILITIES COMMISSION.

Report Title: Public Utilities Commission; Merger

Description: Establishes "substantial net benefit" as the Public Utilities Commission's standard for a transfer or assignment of an electric utility and specifies certain guidelines to address when examining whether a substantial net benefit exists. (HB2567 HD1)

Companion:

Package: None

Current Referral: CPH

Introducer(s): C. LEE, CULLEN, LOPRESTI, THIELEN



DAVID Y. IGE
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

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION
AND HEALTH

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

MONDAY, APRIL 4, 2016
10:30 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

HOUSE BILL NO. 2567, H.D. 1 - RELATING TO THE PUBLIC UTILITIES
COMMISSION

DESCRIPTION:

This proposed measure seeks to establish "substantial net benefit" as the Public Utilities Commission's ("PUC") standard for a transfer or assignment of an electric utility and specifies certain guidelines to address when examining whether a substantial net benefit exists.

POSITION:

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

COMMENTS:

The Consumer Advocate has consistently argued that “substantial net benefit” should be the standard of review in utility mergers. The Consumer Advocate also notes favorably that the originally proposed statutory language would give the PUC the latitude to establish reasonable criteria pursuant to this standard for specific mergers, thus keeping in mind the specific context of each proposed merger that may come before it in the future.

The language added in HD1 is taken verbatim from the PUC’s order identifying issues from the NextEra/Hawaiian Electric merger proceeding, docket no. 2015-0022. These issues were specific to that particular merger and would be inapplicable to non-electric utility mergers given the references to electricity rates. HRS § 269-19 applies to mergers or transfers of any type of utility, including private water, private wastewater, telecommunications carriers, interisland water carriers, and motor transportation carriers. Furthermore, the PUC should be given broad discretion in determining specific issues for any utility merger or acquisition as it did for the NextEra/HECO merger. It may not be appropriate to apply these same issues to a cooperative electric utility that may seek to acquire one or more of the HECO Companies.

In line with the comments above, the Consumer Advocate asks the Committee to revert this bill to its original version and the language contained therein. The original version of House Bill No. 2567 provides a simpler, more effective approach to requiring the “substantial net benefit” standard to all utility mergers in Hawaii.

Thank you for this opportunity to testify.

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

April 4, 2016
10:30 a.m.

MEASURE: H.B. No. 2567, H.D. 1

TITLE: RELATING TO THE PUBLIC UTILITIES COMMISSION

Chair Baker and Members of the Committee:

DESCRIPTION:

This measure requires that “substantial net benefit” be the specific standard for the Public Utilities Commission (“Commission”) to consider in the transfer or assignment of an electric utility. This measure authorizes the Commission to establish reasonable criteria for specific mergers. This measure also details a number of factors that the Commission is required to consider in determining whether there is a “substantial net benefit”.

POSITION:

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

COMMENTS:

The Commission notes that the list of factors that this measure would require the Commission to consider in determining whether there is a “substantial net benefit” (See p. 4, ln. 8 to p. 7, ln. 12) appears to be virtually identical to the Commission’s Statement of Issues in Docket No. 2015-0022, more commonly known as the HECO-NextEra merger proceeding. The HECO-NextEra Statement of Issues identifies specific issues associated with the HECO-NextEra merger. Given that the circumstances of each merger proceeding are unique, it may not be appropriate to examine the exact same issues for every transfer or assignment of an electric utility going forward. The Commission should have the discretion and flexibility to determine what issues are relevant to each situation.

Thank you for the opportunity to testify on this measure.



April 4, 2016

TESTIMONY IN OPPOSITION OF HOUSE BILL 2567

Dear Chair Baker and members of the Senate CCPH:

I am a director and spokesperson for the Hawaii Island Energy Cooperative, a registered Hawaii 421C cooperative.

HIEC is a grassroots organization that has made substantial progress to-date. We, along with our friends at KIUC, have elevated the dialogue on the benefits and advantages of the energy coop ownership model here in Hawaii.

I am writing in opposition to this bill and urge the committee to not support it.

While on the surface, establishing a new benchmark of “substantial net benefit” to a transfer of electric utility ownership might seem reasonable, the reality, if it were to be enacted into law, would likely be far different. How would such a standard be clearly and practically defined and applied? Given the vagaries of what constitutes “substantial” and “net,” adopting and applying such a standard would give all comers to a future docket the opportunity to argue over what constitutes achieving such “benefit” until all the fresh mangoes fall from the trees.


As in, the degree to which “substantial net benefit” would be achieved would be in the eye of the beholder.

Also, if such a metric were to be in the best interest of the state, wouldn't it make sense then to apply it to all public utilities rather than just single out electric utilities? (And further dissuade any future suitors from doing such business in the state.)

Finally, does it make sense for the legislature to continue to encroach on the purview of the state's quasi-independent Public Utilities Commission in matters such as these? Let the commission do its job.

Thank you for the opportunity to provide testimony.

Respectfully,


Marco Mangelsdorf

Post Office Box 1675
Hilo, Hawaii 96721
www.hiec.coop



Hawaii Solar Energy Association
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**TESTIMONY OF THE HAWAII SOLAR ENERGY ASSOCIATION
IN REGARD TO HB 2567 HD 1, RELATING TO THE PUBLIC UTILITIES
COMMISSION
BEFORE THE
SENATE COMMITTEE ON CONSUMER PROTECTION AND HEALTH
ON
MONDAY, APRIL 4, 2016**

Chair Baker, Vice-Chair Kidani and members of the committee, my name is Hajime Alabanza, and I represent the Hawaii Solar Energy Association, Inc. (HSEA)

HSEA strongly supports HB 2567 HD 1. This bill amends §269-19 to adopt a standard of “substantial net benefits” in regard to the transfer or assignment of an electric utility as well as specifying guidelines to indicate whether said benefit exists.

A utility is meant to provide energy to the public, and, in that way, it provides a public good, not unlike a farmer provides food or a hospital provides health care. Accordingly, a utility is also bound by the public that it serves and should seek to provide the best possible service while also providing a roadmap for a utility of the future. In no way is this less true than in the state of Hawaii, which has some of the highest amounts of renewable energy generation in the U.S. per capita as well as the only state with a 100% Renewable Portfolio Standard.

This bill is especially prudent given the proposed acquisition by NextEra of the HECO companies. Since the opening of Docket No. 2015-0022 addressing this issue, the acquisition has been mired by weak public support, a list of complex and ambiguous merger commitments, and an extended evidentiary hearing. It is important that the PUC has a clear guideline to follow during the acquisition process. Thus, this bill would compel the PUC to select an applicant that meets or succeeds the criteria outlined within it.

Thank you for the opportunity to testify.

HB 2567 HD1

RELATING TO THE PUBLIC UTILITIES COMMISSION

**KEN HIRAKI
VICE PRESIDENT-GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM
April 4, 2016**

Chair Baker and members of the Committee:

I am Ken Hiraki, providing comments on behalf of Hawaiian Telcom on HB 2567 HD1.

Hawaiian Telcom recommends that for the purpose of consistency, that the scope of HB2567 HD1 continue to be limited to an electric utility company.

Thank you for the opportunity to testify.

Testimony of Hermina Morita
Before the
Senate Committee on Commerce, Consumer Protection, and Health
April 4, 2016 at 10:30 am in Conference Room 229

House Bill 2567 House Draft 1, Relating to the Public Utilities Commission

Chair Baker, Vice-Chair Kidani, and Members of the Committee,

I testify in opposition to House Bill 2567, House Draft1, which appears to be just a reaction to the NextEra-Hawaiian Electric Company (NEE-HECO) merger application. Ironically, the measure will not affect the Hawaii Public Utilities Commission's decision on that application but could inadvertently affect future electric utility merger/acquisition transactions. Please note that other public utilities were exempted from this measure after receiving much opposition in the previous House committees.

Currently, the PUC has broad discretion in determining the issues it wants addressed in any utility transfer or acquisition. Each proceeding will have unique circumstances, and the PUC should have the latitude to identify where to focus its efforts in order to make the best possible decision in the public interest. Changing the standard for the transfer of an electric utility from "fit, willing, and able" to "substantial net benefit" may introduce a hurdle that could prevent or overly complicate transfers that are desirable, in the public interest but may not reach the threshold of substantial net benefit but just be a net benefit or does no harm. Also, it is not clear to me how substantial would or should be defined because the listed "guidelines" are too specific to the NEE-HECO merger application.

If it were to be reviewed under the requirements of this bill, I would doubt that the Kauai Island Utility Cooperative application to acquire Kauai Electric could meet the substantial net benefit standard. And, I doubt, if there was an opportunity for the Hawaii Island Energy Cooperative (HIEC) to purchase Hawaii Electric Light Company, that HIEC would be able to meet this new standard given the acquisition debt load to be borne by the member/ratepayers at the onset.

Again, the bill's current guidelines, which are identical to the issues in the NEE-HECO merger proceeding, are too specific. If a new standard is to be adopted, the guidelines should be broadly applicable to all public utilities, not just electric utilities and carefully vetted and properly defined to articulate clear and unambiguous Legislative intent to the PUC.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [CPH Testimony](#)
Cc: ndavlantes@aol.com
Subject: *Submitted testimony for HB2567 on Apr 4, 2016 10:30AM*
Date: Tuesday, March 29, 2016 8:52:58 PM

HB2567

Submitted on: 3/29/2016

Testimony for CPH on Apr 4, 2016 10:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments:

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Subject: *Submitted testimony for HB2567 on Apr 4, 2016 10:30AM*
Date: Tuesday, March 29, 2016 5:27:43 PM

HB2567

Submitted on: 3/29/2016

Testimony for CPH on Apr 4, 2016 10:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

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To: [CPH Testimony](#)
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB2567 on Apr 4, 2016 10:30AM*
Date: Saturday, April 02, 2016 10:00:46 PM

HB2567

Submitted on: 4/2/2016

Testimony for CPH on Apr 4, 2016 10:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments:

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