

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION**

H.B. No. 2573

Relating to Energy

Tuesday, February 9, 2016

8:00 am

State Capitol, Conference Room 325

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

Chair Lee, Vice Chair Lowen, 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. 2573.

This bill would prohibit the Hawaii Public Utilities Commission ("PUC") from approving any power purchase agreement ("PPA") which does not allow the sale of energy to third parties or which requires utility consent before selling energy to third parties. Consequently, certain PPAs that are negotiated at arms-length, and determined to be cost effective, reasonable and in the interests of all customers could not be approved. This would include any necessary amendments to, modifications, or renewal of PPAs critical to utility operations, unless the PPA allows for sales of energy to undefined "third parties" regardless of size, number or location.

One of the stated reasons for this bill is that allowing the unrestricted and unregulated sale of energy to third parties would reduce the curtailment of energy which sometimes occurs during excess energy conditions as a result of the need to constantly and consistently balance generation and load on the utility system. This is simply not the case. If there is too much energy on the system, and not enough load to absorb it, this amount of excess energy produced by the generation must be

curtailed. This is true regardless of who is producing the energy and who is consuming it.

To be clear, this is a retail wheeling bill. The Hawaiian Electric Companies oppose this bill because it is not beneficial to all consumers of energy in Hawaii, and is not in the public interest.

Specifically, this bill would likely benefit a few large-load customers, at the expense of non-wheeling customers who would be left paying for the costs of the current electrical infrastructure. Wheeling, as proposed, would also create winners and losers between energy providers – including those who currently have PPAs achieved through competitive bidding and the Companies' other renewable energy procurement processes such as the Feed-In Tariff program - and those who will be allowed to sell directly to third parties.

Wheeling could also make prices more inefficient, cause uneconomic bypass, reduce service reliability to core customers, and require additional costs to maintain the integrity and stability of the system.

Further, wheeling may result in the degradation of service reliability. The utility will be unable to predict where the load will come on to the system and ensure that the transmission and other infrastructure are adequate to safely support such transactions. Under this bill, the ability of the utility to negotiate operational requirements and project design to protect the system would also be degraded.

Accordingly, the Hawaiian Electric Companies oppose H.B. 2573.

Thank you for this opportunity to testify.



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 9, 2016, 8 A.M.

Room 325

(Testimony is 1 page long)

TESTIMONY IN STRONG SUPPORT OF HB 2573

Aloha Chair Lee, Vice Chair Lowen, and Committee members:

The Blue Planet Foundation supports HB 2573, which establishes a policy that will enable innovation in using and storing renewable energy. It is important to note that **this bill is intended to create a mechanism to use energy that would otherwise be wasted** (“curtailed”). For example, this bill would make it possible for a renewable energy project to convert wasted energy into hydrogen. That clean fuel could then be used as a local transportation fuel, or it could generate clean energy at times when the grid needs it.

This bill is not about allowing renewable energy projects to use utility power lines to sell energy to utility customers. This bill is not about reducing the utility’s ability to control the interconnection of renewable energy projects.

“Curtailed” energy is energy produced by an independent power producer, but which is not accepted by the utility onto the electric grid. That energy is typically wasted. Often, because the cost of renewable energy is typically fixed, renewable energy developers must raise the price of energy sold to the electric utility to account for this risk that some generation will be wasted.

A more optimal approach would be to find ways to store that energy for later use, or convert it from electricity into another form of energy (e.g. generating hydrogen from water). Existing power purchase agreements typically restrict the use of curtailed energy. For example, the HECO Companies’ standard power purchase agreement (“PPA”) states: “[Renewable energy projects] shall not sell energy from the Facility to any Third Party.”¹ This eliminates or reduces any incentive to find innovative ways to use or store curtailed energy.

¹ See HECO Model Power Purchase Agreement for Renewable As-Available Energy, art. 20.

In sum, we support HB 2573 for the following reasons:

- (1) Power purchase agreements should be approved only when they are in the public interest. **The public interest favors an approach that does not intentionally waste energy.**
- (2) In the future, with more renewables, we may find that the electric system more frequently generates more energy than demanded at a given point in time.. The future electric grid must find ways to store or convert this excess energy, and our **energy policy should make it possible for energy markets to implement innovative solutions.**
- (3) As indicated in the bill's preamble, **the purpose of the bill is not to favor electricity sales directly from renewable energy project to consumers.** The bill addresses an entirely different issue. The bill is intended to enable energy producers to find other ways to use curtailed energy.
- (4) **Lower curtailment risk can provide a win-win-win for consumers, the utility, and renewable energy projects.** The utility can win because lower curtailment risk should translate into lower PPA prices. Consumers can win because less wasted energy should result in lower energy costs. Renewable developers can win because they will not be prohibited from working with entrepreneurs to find new markets for wasted energy.

Thank you for the opportunity to testify.

House Bill 2573, Relating to Energy
Testimony of Hermina M. Morita

Typically, a power purchase agreement is a contract between an independent power producer and the regulated electric utility subject to the approval by the Public Utilities Commission (PUC). Any agreement between the independent power producer and an unregulated party would not be under the jurisdiction of PUC unless it impacts any part of the Hawaii electric system and electric elements.

Hawaii electric system and electric element are statutorily defined in Chapter 269-141, HRS as follows:

"Electric element" means any plant, line, cable, facility, control system, equipment, or other technology used for the generation, transmission, distribution, storage, regulation, or physical control of electricity.

"Hawaii electric system" means all electric elements located within the State together with all interconnections located within the State that collectively provide for the generation, transmission, distribution, storage, regulation, or physical control of electricity over a geographic area; provided that this term shall not include any electric element operating without any interconnection to any other electric element located within the State.

Inadvertent consequences may occur when the Legislature, by statute, impedes the PUC's ability to thoroughly examine the economic, financial and technical viability of power purchase agreements. It is the electricity ratepayer/customer that bears the cost of power purchases. A bill such as this may inadvertently increase costs to ratepayer/customer if the PUC cannot deny or approve with conditions, based on its findings, a power purchase agreement because of statutory restrictions.

For example a project may produce both electricity sold to the utility and other non-regulated energy products or services. There is always a potential for costs to develop the facility or costs to produce non-regulated energy products or services to be passed on to the regulated side if the PUC is restricted in its ability to evaluate the financial viability of these types of projects in total.

Hermina Morita
P.O. Box 791
Hanalei, Kauai, HI 96714



LATE

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 HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

TUESDAY, FEBRUARY 9, 2016
8:00 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. HB 2573 - RELATING TO ENERGY

DESCRIPTION:

This measure proposes to prohibit the Public Utilities Commission (“PUC”) from approving power purchase agreements that prohibit the sale of energy to third parties or require utility consent to sell energy to third parties, to the extent that the energy is stored by third parties for later distribution to the utility.

POSITION:

The Division of Consumer Advocacy (“Consumer Advocate”) offers comments on this bill.

COMMENTS:

The purpose of this bill is to allow independent power producers (“IPP”) to sell curtailed energy to third parties. If the electric utility is curtailing energy, then it means that supply exceeds load and the energy that is being curtailed cannot be accepted on the grid. In order for an IPP to sell that curtailed energy to a third party, it would require islanding the generator and the third party, because if either remained connected to the grid, then the curtailed energy will still be put onto the grid, which is exactly what was being prevented in the first place.

Moreover, if the IPP and the third party were not islanded, then an IPP selling energy to a third party would be wheeling, i.e., the use of the utility's transmission and distribution system for the sale of electricity to a third party. Wheeling should be allowed only after careful consideration by the PUC with input from the various stakeholders. Furthermore, reasonable tariff rates would need to be adopted by the PUC to compensate the utility for the use of its transmission lines, and utility system operators would need some authority to maintain power quality on the grid.

Thank you for this opportunity to testify.



Email: communications@ulupono.com

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Tuesday, February 9, 2016 — 8:00 a.m. — Room 325

Ulupono Initiative Strongly Supports HB 2573, Relating to Energy

Dear Chair Lee, Vice Chair Lowen, and Members of the Committee:

My name is Kyle Datta and I am General Partner of the Ulupono Initiative, a Hawai'i-based impact investment company that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally grown food; increase affordable, clean, renewable energy; and reduce waste. We believe that self-sufficiency is essential to our future prosperity, and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono strongly supports HB 2573, which prohibits Public Utilities Commission approval of utility power purchase agreements that prohibit sales to third parties.

Ulupono supports changes because the utility has abused its monopoly power over independent power producers to the detriment of the ratepayers. The utility prohibition of third-party sales, coupled with curtailment of renewable energy in favor of fossil fuels, means that the effective cost of renewable energy is higher for ratepayers. When the curtailed power is effectively thrown away, then the owners of these facilities charge higher rates for the power, since the plant is effectively underutilized.

If independent power producers were able to sell their power to third parties, then curtailed energy would be used for energy storage, production of hydrogen, charging of electric vehicles, and other community beneficial activities. These increased revenues will allow renewable producers to reduce their charges to the utility, which is then passed through to ratepayers.

The utility's argument that third-party sales will harm other ratepayers or increase rates is completely without substance. The utility has steadfastly failed to provide opportunities to more effectively use curtailed energy. The proposed "time of use" rates are too tepid to have a meaningful impact on stimulating storage.

Thank you for this opportunity to testify.

Investing in a Sustainable Hawai'i



Respectfully,

Kyle Datta
General Partner