

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

February 4, 2015
2:45 p.m.

MEASURE: H.B. No. 420

TITLE: Relating to the Audit Authority of the Public Utilities Commission

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

DESCRIPTION:

This measure would add a new paragraph to Section 269-144, Hawaii Revised Statutes (“HRS”), to require the Public Utilities Commission (“Commission”) to:

“provide, at least every three years, for an independent third-party management and financial audit of any Hawaii public utility that services seventy-five per cent or more of the state industry market. . . [to] include but not be limited to. . . (1) The responsibilities, services, and activities of the utilities; (2) The propriety of expenditures; 3) Compliance of utilities with the established goals of the public utilities commission as defined in Chapter 269 of the Hawaii Revised Statutes and pursuant to the germane administrative rules adopted by the commission; and (4) Any additional audit issues that the auditor deems appropriate.”

The auditor is to “submit its findings and recommendations to the legislature.” No general fund appropriations are provided for the proposed audit.

POSITION:

The Commission would like to offer the following comments for the Committee’s consideration.

COMMENTS:

The purpose and scope of the recurring audits proposed by this measure are unclear. The Commission is already provided significant investigative authority. For example, HRS Section 269-7 provides the Commission with the authority to:

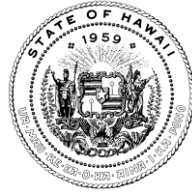
"examine into the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, the value of its physical property, the issuance by it of stocks and bonds, and the disposition of the proceeds thereof, the amount and disposition of its income, and all its financial transactions, its business relations with other persons, companies, or corporations, its compliance with all applicable state and federal laws and with the provisions of its franchise, charter, and articles of association, if any, its classifications, rules, regulations, practices, and service, and all matters of every nature affecting the relations and transactions between it and the public or persons or corporations. . ."

Also, HRS Section 269-8 provides that:

"Every public utility. . .shall at all times, upon request, furnish to the public utilities commission all information that it may require respecting any of the matters concerning which it is given power to investigate, and shall permit the examination of its books, records, contracts, maps, and other documents by the commission, or any of its members, or any person authorized by it in writing to make such examination. . ."

Further, the costs of such recurring third party audits are unknown and may require significant appropriations.

Thank you for the opportunity to testify on this measure.



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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

WEDNESDAY, FEBRUARY 4, 2015
2:45 p.m.

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

HOUSE BILL NO. 420 – RELATING TO THE AUDIT AUTHORITY OF THE
PUBLIC UTILITIES COMMISSION

DESCRIPTION:

This measure proposes to require the Public Utilities Commission (“PUC”) to provide for an independent management and financial audit at once every three years of any public utility that services seventy-five percent or more of its respective market. These audits should evaluate the responsibilities, services and activities of the utilities, the propriety of expenditures, and compliance with the relevant statutory language and PUC rules.

POSITION:

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

COMMENTS:

The Consumer Advocate appreciates the intent of HB 420, which seems to be seeking to ensure that major utility companies, such as the Hawaiian Electric Companies and Hawaii Gas, are complying with the goals and objectives as defined in Chapter 269 of the Hawaii Revised Statutes (“HRS”) and promulgated in the PUC’s administrative rules. This measure appears to assume that, in order to evaluate such compliance, financial and management audits are required and should be done at least once every three years with the results of those audits reported to the legislature.

There are a number of comments that the Consumer Advocate would like to offer for this committee’s consideration regarding the proposed audit requirements:

- First, for the larger utility companies that are publicly traded, annual financial audits by independent auditors are already a requirement and the resulting audit reports are publicly available for review. Thus, requiring a financial audit of these companies appears redundant.
- For large publicly traded companies, the financial audits incorporate testing of the internal controls in order for the independent auditors to rely on those existing internal controls and management policies to test and validate the financial audit procedures. Audit of the internal controls had already been conducted in the past, but audits of internal control over financial reporting are now directly related to a requirement by the Sarbanes-Oxley Act of 2002. In addition, publicly traded companies generally have internal audit staff and management to perform specific periodic audits of company processes. The internal audit reports are not, however, publicly available.
- Independent auditors generally do not perform reviews of compliance with environmental laws and rules. Rather, compliance with relevant environmental laws and guidelines are performed by either the Environmental Protection Agency or a relevant State entity, such as the Hawaii Department of Health.
- The proposed measure would, as currently drafted, potentially cause additional time, effort and money to be incurred to essentially duplicate procedures already being performed.
- If management audits are going to be performed, careful consideration of the appropriate scope is essential to developing productive results. Otherwise, significant time, effort and money will be incurred but will not produce commensurate value.
- The measure is unclear regarding the source of the funds that will pay for the audit. While the utility could be made to pay for the audit, if the auditor is hired by the utility company, there will be questions as to the appearance of objectivity of the auditors.

- If this audit requirement will be adopted, it should be applied to all of the companies and industries that are regulated by the PUC unless adequate cause, such as sufficient competition existing in that industry, exists to mitigate the need for such audit requirements. Thus, having this language attached to HRS 269-144 may limit the applicability of the proposed requirements.

In summary, the Consumer Advocate asks that the Committee carefully consider the added costs that would be borne by ratepayers either through direct costs or through the potential impacts (i.e., delays in related regulatory proceedings) of a three-year auditing cycle.

Thank you for this opportunity to testify.