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TO THE SENATE COMMITTEE ON WAYS AND MEANS

THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

MONDAY, FEBRUARY 27, 2017
9:40 A.M.

TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE JILL N. TOKUDA, CHAIR, AND MEMBERS OF THE
COMMITTEE

SENATE BILL NO. 382, SD1 - RELATING TO THE PUBLIC UTILITIES COMMISSION

DESCRIPTION:

This measure proposes to make various updates to the structure and operations of the Public Utilities Commission ("PUC" or "Commission") to increase efficiency and effectiveness, including: permitting teleconference and videoconference abilities; updating the composition of the Commission; specifying training requirements; clarifying commissioners' ability to appoint and employ staff; permitting neighbor island members to receive per diem compensation and compensation for travel expenses; requiring the Commission to report to the legislature regarding certain staff duties; and requiring a management audit of the Commission.

POSITION:

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

COMMENTS:

The Consumer Advocate generally supports the idea of reasonable measures that might enable the Commission to become more collaborative and efficient. As will be discussed below, however, the Consumer Advocate defers to the Commission on whether aspects of this bill may adversely affect the Commission's operations and/or result in unintended consequences.

As offered in prior legislative sessions, the Consumer Advocate supports provisions in this legislation that would better enable neighbor island residents to serve on the Commission, such as the provisions allowing for teleconference or videoconference participation by commissioners to attend public hearings and requiring a per diem and travel compensation for neighbor island commissioners. The Consumer Advocate also generally supports provisions of this bill regarding the selection and training of commissioners.

The Consumer Advocate defers to the Commission about whether or not the provisions in this bill regarding the Commission's staff, structure, and guiding principles will help it be more collaborative and efficient. It is the Consumer Advocate's understanding that the Commission has only recently been able to fill many of its vacancies and that various organizational transitions are occurring; thus, an audit at this time may not be as helpful as after "the dust has settled." Therefore, the Consumer Advocate defers to the Commission about whether a management audit would be helpful at this time.

There are some provisions in this bill, however, that the Consumer Advocate worries may have unintended consequences. For example, while the guiding principles articulated in the first additional subchapter in section 2 of the bill are generally reasonable, writing them into statute may limit the Commission's options and/or create inconsistent objectives. A possible illustration is how the Commission will be challenged to fulfill the principle of encouraging competition even though there are other provisions that inhibit competition, such as section 271G-10, Hawaii Revised Statutes, which does not allow the Commission to grant a certificate of public convenience and necessity to another water carrier unless certain criteria are met.

Another example of possible unintended consequences is how increasing the size of the Commission may add more perspectives to the Commission's deliberations, but expanding the number of commissioners may also work against the bill's stated aim of increasing efficiency.

The Consumer Advocate supports provisions that would assist neighbor island residents and non-lawyers being commissioners, however, establishing a requirement that limits the number of attorneys that may serve on the commission or requiring that at least one commissioner be a resident of a county other than the city and county of Honolulu may inhibit the ability to select the most qualified individuals. Rather than establishing these types of requirements, these characteristics should be criteria that should be considered when determining that individual's qualification to serve as a commissioner.

In summary, the Consumer Advocate generally supports the intent to make the Commission more efficient and capable in order to serve the public interest but contends that further consideration may be necessary to ensure that the proposed legislation does not result in unintended and/or undesirable consequences.

Thank you for this opportunity to testify.