

JAN 24 2018

A BILL FOR AN ACT

RELATING TO THE HAWAII RATEPAYER PROTECTION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known as the Hawaii Ratepayer
2 Protection Act.

3 SECTION 2. In 2014, the public utilities commission issued
4 a landmark white paper titled "Commission's Inclinations on the
5 Future of Hawaii's Electric Utilities: Aligning the Utility
6 Business Model with Customer Interests and Public Policy Goals".
7 The white paper offered "perspectives on the vision, business
8 strategies and regulatory policy changes required to align the
9 HECO Companies' business model with customers' interests and the
10 state's public policy goals".

11 The legislature finds that improving the alignment of
12 utility customer and company interests is critical to ensuring
13 that Hawaii's residents and businesses do not suffer economic
14 and environmental harm from the State's energy systems. At the
15 same time, this realignment is critical to ensure the ongoing
16 viability of the State's regulated electric utilities, as the
17 electric utilities face increasing need to rapidly adapt



1 business models and strategies that enable new innovations and
2 customer choices.

3 Furthermore, the legislature finds that this realignment
4 has entered a period of extraordinary urgency. The commission's
5 white paper noted that the State's utilities must rapidly create
6 a twenty-first century generation system, modernize transmission
7 and distribution grids, and implement new rate structures in
8 concert with changes to the outdated regulatory compact. The
9 legislature agrees with the public utilities commission that
10 "electric utilities need to move with urgency to modernize the
11 generation system on each island grid as delays are lost savings
12 opportunities".

13 To that end, some of the State's utilities have recently
14 proposed modernization plans. Those plans would ultimately
15 result in a dramatic reduction in fossil fuel consumption, as
16 those fuels are replaced by renewable energy resources.
17 However, this shift would be accompanied by an equally dramatic
18 shift in how utility revenues are expended. As fewer funds are
19 spent to purchase fossil fuels, those funds will be redirected
20 to capital projects. This is a benefit to residents and
21 businesses, insofar as fixed-cost renewable energy projects can



1 reduce the risk of consumers facing volatile fossil fuel costs.
2 Renewable energy resources have also entered a new paradigm
3 where they can lower energy costs in comparison to fossil fuels.

4 However, the existing regulatory compact rewards utilities
5 for increasing capital expenditures by basing allowed revenues
6 on the value of the rate base, irrespective of utility
7 performance. This same business and revenue model has been in
8 place for over a century. The Wall Street Journal explained
9 that "the more [utilities] spend, the more profits they earn",
10 and called this "a regulatory system that turns corporate
11 accounting on its head".

12 The legislature additionally finds that it is justified to
13 be concerned that the existing regulatory compact misaligns the
14 interests of customers and utilities, because it may result in a
15 bias toward expending utility capital on utility-owned or funded
16 projects. These projects may displace more efficient or cost-
17 effective options, such as distributed energy resources owned by
18 customers or projects implemented by independent third parties.

19 The legislature concludes that it must ensure a change to
20 the regulatory compact to promote decisions and strategies that



1 will maximize public benefit, reduce ratepayer risk, and meet
2 Hawaii's energy goals.

3 The legislature also finds that, although some utility
4 performance incentives are being considered in existing dockets
5 at the public utilities commission, any resulting performance
6 incentives have not been transformative in urgently moving
7 electric utilities toward the State's ambitious energy policy
8 goals. The legislature further finds that the responsibility
9 for aligning investor-owned utility regulatory policies with
10 customers' interests and the State's public policy goals is not
11 limited to the public utilities commission, but more broadly
12 rests with the state and county governments that represent the
13 public interest. The regulatory framework under which utilities
14 operate and the scope of regulation by the public utilities
15 commission are established by the legislature, which holds the
16 exclusive authority to issue, amend, or revoke franchise rights
17 that permit utilities to operate in the State.

18 The purpose of this Act is to protect consumers by urgently
19 and proactively ensuring that the existing utility business and
20 regulatory model will be updated for the twenty-first century by
21 requiring that electric utility rates be considered just and



1 reasonable only if the rates are derived from a performance-
2 based model for determining utility revenues.

3 SECTION 3. Chapter 269, Hawaii Revised Statutes, is
4 amended by adding a new section to part I to be appropriately
5 designated and to read as follows:

6 "§269- Performance incentive and penalty mechanisms.

7 (a) On or before January 1, 2020, the public utilities
8 commission shall establish performance incentive and penalty
9 mechanisms that directly tie electric utility revenues to a
10 utility's achievement on performance metrics and break the
11 direct link between allowed revenues and investment levels.

12 Once established, such performance incentives and penalties, as
13 may be amended by the public utilities commission from time to
14 time, shall apply to all regulation of electric utility rates
15 under section 269-16.

16 (b) In developing performance incentive and penalty
17 mechanisms, the public utilities commission's review of electric
18 utility performance shall consider, but shall not be limited to,
19 the following:

20 (1) The economic incentives and cost-recovery mechanisms
21 described in section 269-6(d);



- (2) Exceeding the State's renewable portfolio standards as described in section 269-92;
- (3) Electric rate affordability and ratepayer volatility risk;
- (4) Electric service reliability;
- (5) Customer engagement and satisfaction, including customer options for managing electricity costs;
- (6) Access to utility system information, including but not limited to public access to electric system planning data and aggregated customer energy usage data and individual access to granular information about an individual's own energy usage data;
- (7) Rapid integration of renewable energy sources, including quality interconnection of customer-sited resources;
- (8) Timely execution of competitive procurement, third-party interconnection, and other business processes; and
- (9) Fair compensation for utility employees."

SECTION 4. New statutory material is underscored.



S.B. NO. 2956

1 SECTION 5. This Act shall take effect on July 1, 2018.

2

INTRODUCED BY: Will Espino



S.B. NO. 2956

Report Title:

Ratepayer Protection Act; Public Utilities Commission; Electric Utilities

Description:

Requires, on or before 1/1/2020, the public utilities commission to establish performance incentive and penalty mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics.

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