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**TO THE HOUSE COMMITTEE ON  
ENERGY AND ENVIRONMENTAL PROTECTION**

**TWENTY-NINTH LEGISLATURE  
Regular Session of 2018**

Tuesday, February 6, 2018  
8:30 A.M.

**TESTIMONY OF DEAN NISHINA, 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. 2431 – RELATING TO ENERGY.**

**DESCRIPTION:**

This measure requires the Public Utilities Commission to establish performance incentive mechanisms for electric utilities.

**POSITION:**

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

**COMMENTS:**

As acknowledged in the preamble to this measure, as the energy industry continues to evolve, the regulatory process needs to evolve as well, including better alignment of regulated utility interests with state goals. As also acknowledged by the legislature in the preamble to the bill, performance incentive mechanisms are the subject of multiple ongoing dockets before the Commission.

The Commission initiated a Decoupling Investigation docket by issuing Order No. 31289 on May 31, 2013. In its recent Orders No. 35075 and 35165, both issued in December 2017, the Commission provided amendments to draft performance incentive metrics from the Hawaiian Electric Companies and instructed the same to refile tariffs consistent with those amendments, respectively. The issue of performance incentives was identified as an issue in recent applications by Hawaii Electric Light Company, Inc., and Hawaiian Electric Company, Inc. in Docket Nos. 2015-0170 and 2016-0328, respectively. Furthermore, as part of the ongoing request for proposal docket to procure new renewable generation, the Commission has invited interested stakeholders to propose performance incentive measures that might help enhance the RFP process in Docket No. 2017-0352.

The Consumer Advocate supports the idea of measures that are designed to better align utility management interests with those of customers and state goals. The Consumer Advocate offers, however, that adequate care must be exercised to ensure that performance incentives, hastily and/or carelessly designed, do not result in unintended consequences that might unintentionally allow customer bills to increase, reliability and/or resilience to decrease, customer service to decrease, utility companies to reap undeserved windfalls, or other undesirable outcomes while the original objectives are not attained. Given that there are ongoing efforts to carefully design and implement performance incentive mechanisms, the proposed measure appears unnecessary, and the Consumer Advocate urges the legislature to allow the Commission to complete the ongoing proceedings before requiring performance incentive mechanisms by a certain date. As noted above, if performance mechanisms are hastily or carelessly designed, undesirable unintended consequences can occur, which Hawaii and other jurisdictions have experienced in the past. If the Legislature wishes to express its preferences on the subject or to require a reporting on the progress of adopting performance incentive mechanisms, then the Consumer Advocate humbly suggests that a substantive resolution may be more appropriate.

If, however, this committee believes this measure should move forward, the Consumer Advocate suggests deletion of the proposed metric (“Meeting and exceeding the State’s renewable portfolio standards”) on page 5, lines 3-4 of this bill. If the desirable objective is the rapid integration of renewable energy resources, such that the utility is rewarded for achieving a benchmark earlier than the goals already set forth statutorily, that metric is arguably already captured on page 5, lines 16-18 (“Rapid integration of renewable energy sources, including quality interconnection of customer-sited resources”).

The Consumer Advocate also suggests that the proposed metric on page 5, lines 3-4 of the bill read as “Electric rate affordability and ratepayers’ volatility risk” to make clear that the metric should consider the volatility and affordability of both rates and bills that consumers will be asked to bear.

Finally, the Consumer Advocate suggests deletion of the proposed metric on page 6, line 9 of the bill (“Fair compensation for utility employees”). The Consumer Advocate supports the notion that utility employees should be fairly compensated. If this metric is adopted, however, it could lead to unintended consequences where consumers will likely bear greater costs as utility companies increase employee compensation to ensure meeting this performance metric.

Thank you for this opportunity to testify.

TESTIMONY OF RANDY IWASE  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON  
ENERGY AND ENVIRONMENTAL PROTECTION

February 6, 2018  
8:30 a.m.

**MEASURE:** H.B. No. 2431  
**TITLE:** RELATING TO ENERGY.

Chair Lee and Members of the Committee:

**DESCRIPTION:** Requires the Public Utilities Commission to establish performance incentive mechanisms for electric utilities.

**POSITION:** The Public Utilities Commission (“Commission”) offers the following comments for consideration.

**COMMENTS:**

The Commission agrees that electric utility financial incentives should be better aligned with customer needs and the State’s energy policy. The Commission is committed to protecting utility customers and ensuring that existing utility regulatory approaches are updated to reflect improving technology, changing customer preferences, and state policy goals.

The Commission is currently utilizing performance-based regulation (“PBR”) through several active proceedings, including the decoupling re-examination (Docket 2013-0141), active general rate cases for each of the Hawaiian Electric Companies (Dockets 2015-0170, 2016-0328, and 2017-0150), as well as high priority initiatives such as the Demand Response portfolio and the upcoming Requests for Proposals for new renewable generation on Oahu, Maui, and Hawaii islands (Dockets 2015-0412 and 2017-0352).

As part of these proceedings, over the course of several years, the Commission has established numerous PBR components that now make up the current regulatory framework. Such components include a 3-year rate plan for each of the HECO Companies, with capped revenues in between rate cases. In addition, the Commission has adopted performance incentives for the HECO Companies, targeting customer service and grid reliability. The Commission is also developing new performance incentives to reward exceptional utility performance in successfully executing the upcoming solicitations for new renewable generation and acquiring grid services from customers.

In the first half of 2018, the Commission intends to open a proceeding to further examine PBR frameworks, which is expected to include additional performance incentives and further regulatory reform to better align utility incentives with customer needs and state energy policy.

Thank you for the opportunity to testify on this measure.

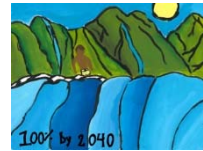
**HB-2431**

Submitted on: 2/5/2018 8:19:26 AM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:



## HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 6, 2018, 8:30 A.M.

Room 325

(Testimony is 2 pages long)

### TESTIMONY IN SUPPORT OF HB 2431

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

Blue Planet Foundation **supports** House Bill (HB) 2431, setting a deadline to implement performance-based ratemaking for electric utilities. This bill would:

- (1) Establish a deadline to implement a performance-based mechanism for utility compensation;
- (2) Establish a framework for reviewing performance-based utility incentives and penalties; and
- (3) Maintain a non-prescriptive deference to the Public Utilities Commission (PUC) on the details of the performance-based mechanism.

### “Cost-Plus” vs. Performance-Based Ratemaking

Many Hawaii residents and businesspeople are surprised to learn that utility rates across the country were traditionally set using a “cost-plus” system. Under this system, utility profits are generally set as a percentage of utility expenditures. The *Wall Street Journal* has explained that under cost-plus ratemaking, “the more [utilities] spend, the more profits they earn.” The report called this “a regulatory system that turns corporate accounting on its head.”

Under existing utility ratemaking, utilities aren’t directly rewarded for reducing customer bills, or adding renewable energy, or increasing the resiliency of the system. In contrast, performance-based ratemaking would tie utility revenues to the achievement of certain performance benchmarks. This would align the financial interests of utility shareholders with the interests of ratepayers and the state.

This policy sets a deadline for performance-based ratemaking and provides further guidance to the PUC on benchmarks. Without such policy, Hawaii will continue to have a misaligned incentive system where the utility makes

#### Potential Performance Benchmarks

- Electric rate affordability
- Reducing ratepayer risk
- Electric service reliability
- Customer satisfaction and engagement
- Quickly interconnecting customer projects
- Timely competitive procurement processes
- Exceeding renewable portfolio standards

more by spending more, and investors aren't directly rewarded for lower electricity bills, more renewables, and other shared goals.

### **Long-Awaited Reform**

In 2014, the Hawaii PUC issued its “Inclinations on the Future of Hawaii's Electric Utilities: Aligning the Utility Business Model with Customer Interests and Public Policy Goals.” Those Inclinations provided “perspectives on the vision, business strategies and regulatory policy changes required to align the HECO Companies’ business model with customers’ interests and the state’s public policy goals.”

Subsequent years have seen this re-alignment examined in several ways. For example, in a recent decision (issued January 25, 2018) in the demand response docket (No. 2015-0412), the PUC established a one-time performance incentive for the Hawaiian Electric utilities related to the timely acquisition of cost-effective demand response. In the decision, the PUC expressed a willingness to consider different performance incentives to inform and reward demand response portfolio outcomes in the longer term. The PUC has also investigated the “decoupling” process, which was intended to remove an incentive to sell more energy (and thus removing a disincentive for energy efficiency).

In addition, recent Hawaiian Electric utility rate cases have proposed a limited set of performance benchmarks. In fact, **Hawaiian Electric has requested that the PUC “initiate a separate investigatory docket based on HRS § 269-6(d) . . . to fully develop a comprehensive PBR [performance-based ratemaking] Framework for all three Hawaiian Electric Companies.”**<sup>1</sup>

This prior and ongoing work provides a foundation for implementing a comprehensive performance-based ratemaking process. House Bill 2431 would set **a deadline to implement this long-awaited and consumer-friendly update to our state’s utility regulations and offers a framework for reviewing performance-based utility incentives and penalties** to ensure that they are transformative.

We respectfully request that the Committee forward HB 2431 as currently written.

Thank you for the opportunity to testify.

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<sup>1</sup> See Hawaiian Electric Company, Inc. 2017 Test Year Application, filed Dec. 16, 2016 in Docket No. 2016-0328, at page 20.





**Hawaii Solar Energy Association**  
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**TESTIMONY OF THE HAWAII SOLAR ENERGY ASSOCIATION  
IN REGARD TO HB 2431, RELATING TO ENERGY  
BEFORE THE  
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION  
ON  
TUESDAY, FEBRUARY 6, 2018**

Chair Lee, Vice-Chair Lowen, and members of the committee, my name is Will Giese, and I represent the Hawaii Solar Energy Association, Inc. (HSEA)

HSEA **supports** HB 2431 with comments. The measure amends §269 to include language that will designate the public utilities commission to establish performance-based mechanisms, allowing several avenues by which the public utility can track or is otherwise incentivized to meet or exceed state energy goals.

These amendments are in line with issues surrounding the Commission’s “Inclinations” docket released on April 28<sup>th</sup>, 2014.<sup>1</sup> It also sets a precedent by which the utility should be functioning as a service for the public’s benefit. Also included in this measure are several data gathering and distribution provisions that build transparency in the utility’s grid planning efforts and allow greater fidelity of participation in various energy dockets and proceedings.

Currently, several resource and grid modification options are being discussed in active dockets at the Public Utilities Commission.<sup>2</sup> There are no mechanisms being discussed that would incent the utility to meet the objectives laid out in Hawaii Revised Statutes §269-92 other than guidelines and directives regulated by the Public Utilities Commission. By passing HB 2431, the legislature will codify into law a process by which the utility will either be rewarded or penalized for meeting renewable energy goals and milestones. This type of legislation represents the enforcement of the aggressive renewable portfolio standard that the state has set for itself.

Rather than relying on a vertically integrated, investor owned, for-profit utility to meet our state’s renewable energy goals, the performance-based mechanisms outlined in HB 2431 should be adopted. We have recently closed the 4<sup>th</sup> iteration of the PSIP process, not to mention the work that has transferred over from the now defunct Integrated Resources Plan docket. While the most current version of the Power Supply Improvement Plan, was

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<sup>1</sup> See Order No. 32052, Docket No. 2012-0036, “Commissions Inclinations on the Future of the Public Utility” as well as the “Grid Modernization Plan” filed by the HECO companies in April of 2017.

<sup>2</sup> See now closed docket No. 2014-0183, Power Supply Improvement Plans, Docket No. 2014-0192 re: distributed energy resources, and Docket No. 2015-0389 regarding community based renewable energy projects.









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approved and ratified by the Public Utilities Commission in part, it will not be the end of the process to continually modernize our grid and build out renewable energy.

Rather than having a rate making structure that fights innovative and disruptive technologies such as solar and wind, why not adopt a structure that incents utilities to allow more of these resources on to the grid, and provides a path for the utility to integrate these resources? A recent rate case regarding Hawaiian Electric Light found that HELCO regards “customer service performance metrics” as actions like “answering customer phones in a timely matter” and “paperless bill processing”.<sup>3</sup> The state should not rely on the utility alone to establish what is or is not a performance incentive mechanism.

There is clearly precedent for this type of legislation already present in the Hawaii Revised Statutes, as well as in the current regulatory climate within the state. HB 2431 is completely in-line with the 2045 RPS goals, follows recent guidance by the PUC, will create a more flexible market for the various energy resources in the state, and will allow more predictable rates for the electric customers of this state. It also discourages market activity that might otherwise hurt the state’s progress toward a 100% RPS, such as grid defection.<sup>4</sup> A 2016 Berkeley Labs study found that Performance Incentive Mechanisms (PIMs), from a customer’s perspective, “can strengthen incentives for utilities to improve performance in a wide range of initiatives, and the benefits ideally are shared between utilities and their customer” and from a utility perspective “give utilities more opportunities to profit from improved performance.”<sup>5</sup> This study also outlines traditional and emerging performance based goals based on current energy policy trends:

**Table 2. Traditional Performance Areas**

Performance Dimension	Purpose of Metrics
 Reliability	Indicate the extent to which service is reliable and interruptions are remedied quickly (e.g., SAIDI and SAIFI)
 Customer Service	Ensure that the utility is providing adequate levels of customer services
 Plant Performance	Indicate the operating performance of specific generation resources (e.g., availability factor)
 Cost	Indicate the cost of service (e.g., rates, unit cost and productivity)
 Employee Safety	Ensure that employees are not subjected to excessive safety risks
 Public Safety	Ensure that the public is not subjected to excessive safety risks

Source: Whited, Woolf and Napoleon (2015)

<sup>3</sup> See Docket No. 2015-0170, Letter From: D. Matsuura To: Commission Re: Docket No. 2015-0170 - Hawai'i Electric Light 2016 Test Year Rate Case; Hawai'i Electric Light Responses to Consumer Advocate Information Requests, pp. 4-20.





<sup>4</sup> See <http://www.synapse-energy.com/sites/default/files/performance-based-reg-high-der-future.pdf>

<sup>5</sup> Lowry, Mark N, and Tim Woolf. *PERFORMANCE-BASED REGULATION IN A HIGH DISTRIBUTED ENERGY RESOURCES FUTURE*. Berkely Lab, Jan. 2016,



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**Table 3. Emerging Performance Areas**

Performance Dimension	Purpose of Metrics
 System Efficiency	Indicate the extent to which the utility system as a whole is being operated more efficiently – e.g., in terms of load factor
 Customer Engagement	Indicate the extent to which customers are implementing energy efficiency, demand response, distributed generation and other DERs
 Network Support Services	Indicate the extent to which customers and third-party service providers have access to the network
 Environmental Goals	Indicate the extent to which the utility and its customers are reducing environmental impacts, including climate change

Source: Whited, Woolf and Napoleon (2015)

We **strongly support** HB 2431 and urge the committee to pass this bill.

Thank you for the opportunity to testify.

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

**H.B. No. 2431 - Relating to Energy**

Tuesday, February 6, 2018

8:30 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 submitting testimony on behalf of Hawaiian Electric Company and its subsidiary utilities Maui Electric Company and Hawai'i Electric Light Company. The Companies support the intent of H.B. 2431, however, oppose it in its current draft because it is potentially too prescriptive and overbroad.

The Companies support carefully designed incentive based regulation, a.k.a., performance based ratemaking ("PBR"). Indeed, this bill may be unnecessary because the Companies have recommended in Hawaii Public Utilities Commission ("Commission") proceedings that an investigatory docket be opened to fully review and develop a comprehensive PBR Framework. In an order issued by the Commission last year, the Commission noted that it "intends to commence a separate proceeding to comprehensively review the issues of performance-based ratemaking and performance incentive mechanisms."<sup>1</sup> The Commission has reiterated its intention to open a comprehensive PBR proceeding in other decisions issued within the past year.<sup>2</sup>

In addition, the Commission recently directed the Companies to file Performance Incentive Mechanism and Revenue Balancing Account tariffs regarding reliability and call center performance to be effective January 1, 2018, in Docket No. 2013-0141. The Commission also expressed its intention to establish performance incentives that reward exceptional performance in the Companies' procurement of renewable energy (Docket No. 2017-0352), and in Demand Response Portfolio outcomes (Docket No. 2015-0412).

However, if the bill were to move forward, the Companies respectfully submit that it would be better to establish a framework of principles within which the scope of PBR and the incentives themselves should be developed rather than jumping ahead and prescribing specific outcomes now. This is because PBR models can be designed in many different ways for many different purposes. Like any change in regulatory ratemaking, the basic principles of a PBR model should be first established, and great care should be given to avoid unintended consequences.

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<sup>1</sup> Order No. 34502, issued on April 13, 2017 in Docket No. 2015-0170, at page 15.

<sup>2</sup> For instance, see the Commission's Order No. 34664, issued on June 28, 2017 in Docket No. 2016-0328, at page 26.

Thus, PBR can more quickly and effectively be developed and implemented if principles, such as the following, are first established.

PBR is best considered as an adaptation to traditional rate-making rather than a completely new and different approach. All PBR plans are founded on cost-based rates determined in the same way as a traditional general rate case. Incentives can then be layered on top of the cost-based rates to encourage desired outcomes. If, over time, the desirable outcomes are achieved, the utility will earn a greater return than it would have done under traditional ratemaking. Conversely, if the desirable outcome is not achieved, the utility will earn a smaller return than it would have done under traditional ratemaking.

The utility should bear risk from factors that are within management control but should not bear the risk from factors that are outside its control. PBR plans frequently incorporate a mechanism to pass through changes in elements of cost that are outside management control, such as fuel prices or changes in taxation. PBR plans also frequently incorporate sales decoupling so that management does not have a conflict between the policy goals of energy conservation and promoting distributed energy resources and the fact that lower retail sales will lower profits. Targets should be realistic and attainable and consistent with funding levels and measurement of results should be objective.

A PBR plan must provide the utility with a reasonable opportunity to earn a fair rate of return. Employing a PBR plan does not change the applicable regulatory standards and protections associated with determining an authorized rate of return.

Incentives to achieve clean energy goals and other specific outcomes, can be developed based on and should be consistent with the underlying service and resource plan on which the PBR plan is based.

Well-designed PBR plans tend to have a small number of incentives in key performance areas. There are limits on the total amount of revenue that can be put at risk through incentive schemes, so if there are too many individual incentives the strength of any one incentive will be diluted.

As drafted, this bill does not establish a framework of principles that should anchor the development of specific incentives. It also requires that all aspects of rates should be tied to performance metrics, and prescribes the objectives that must be considered for outcomes, which are overbroad, too complicated and may be counter-productive. Such a framework would make the Company subject to penalties and rewards for factors outside of its control and potentially expose the Company and ultimately its customers to higher levels of risk that could affect the Company's financial state, its ability to invest in electrical and renewable infrastructure and the provision of reliable service.

Finally, specific outcomes to be incentivized should support the Companies' Power Supply Improvement Plans as accepted by the Commission in Docket No. 2014-0183 and/or desired outcomes established in the Commission's ongoing

Distributed Energy Resource (“DER”) docket (Docket No. 2014-0192) to name a few. The nine objectives listed in this bill seem to predetermine outcomes in those dockets.

Accordingly, the Hawaiian Electric Companies oppose H.B. 2431 as drafted.

Thank you for this opportunity to testify.

**HB-2431**

Submitted on: 2/2/2018 5:58:14 PM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kat Culina		Support	No

Comments:

**HB-2431**

Submitted on: 2/2/2018 7:33:36 PM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randy Ching		Support	No

Comments:

Chair Lee, Vice Chair Lowen and members of the committee,

Please pass HB2431. Thank you for the opportunity to testify.

Randy Ching / Honolulu / makikirandy@yahoo.com



**HB-2431**

Submitted on: 2/3/2018 9:02:29 PM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Furst		Support	No

Comments:

I strongly support this measure, as HECO's motives are purely profit driven, and not necessarily inline with the energy self-sufficiency goals of the State. There must be a mechanism to lead HECO towards a more energy effecient long term focus, and this bill proposes to develop that mechanism.

**HB-2431**

Submitted on: 2/4/2018 8:02:33 AM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joan Gannon	West Hawaii CHC	Support	No

Comments:

I support HB2431

**HB-2431**

Submitted on: 2/4/2018 9:47:31 PM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Noelani Ahia		Support	No

Comments:

Aloha,

My name is Jennifer Noelani Ahia and I support HB 2431.

Mahalo,

Jennifer Noelani Ahia

Wailuku, Maui

**HB-2431**

Submitted on: 2/4/2018 10:01:55 PM

Testimony for EEP on 2/6/2018 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marion McHenry		Support	No

Comments: