

SB2022

Measure Title: RELATING TO THE PUBLIC UTILITIES COMMISSION.

Report Title: Public Utilities Commission; Decision Making Process; Deadlines; Annual Report

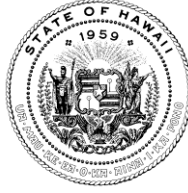
Description: Establishes a timeframe for the decision-making processes of the Public Utilities Commission. Requires the Commission to establish criteria for prioritizing among multiple proceedings. Requires the Commission to submit a report to the Legislature prior to each regular session on all proceedings that were open at any time during the preceding year.

Companion:

Package: None

Current Referral: CPH

Introducer(s): INOUYE, ESPERO, Baker, S. Chang, Dela Cruz, Gabbard, Ihara, Kim, Nishihara, Shimabukuro



DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Friday, February 23, 2018
10:00 a.m.

TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE

SENATE BILL NO. 2022 – RELATING TO THE PUBLIC UTILITIES COMMISSION.

DESCRIPTION:

This measure establishes a timeframe for the decision-making processes of the Public Utilities Commission (“Commission”). It requires the Commission to establish criteria for prioritizing among multiple proceedings and to submit a report to the Legislature prior to each regular session on all proceedings that were open at any time during the preceding year.

POSITION:

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

COMMENTS:

The Consumer Advocate appreciates the apparent intent of the measure but has the following concerns.

First, the proposed deadlines in this measure conflict with existing deadlines for specific Commission actions in other sections of Hawaii Revised Statutes (“HRS”) chapter 269 and Hawaii Administrative Rules section 6-61. It is unclear whether the proposed deadlines would supersede the existing deadlines or, in the alternative, how the proposed deadlines would accommodate existing deadlines.

Next, if this measure passes, the Consumer Advocate is concerned with the impact the proposed deadlines will have on the Consumer Advocate’s ability to fulfill its statutory duties and responsibilities. Certain dockets, such as those in which applicants seek motor carrier certificates of public convenience and necessity, can be completed in a short time. On the other hand, there are more complicated dockets, such as rate proceedings for utility companies with revenues exceeding \$2 million which, as set forth in section 269-16, do not require a decision and order until at least nine months after the application is deemed complete. If the proposed deadlines are applied and the time available for Commission consideration of complicated issues and policies is shortened, this bill could lead to undesirable consequences, such as certain parties withholding information or otherwise drawing out the discovery process to take advantage of impending deadlines. Shortened deadlines for more complex or larger proceedings could also lead to hasty decisions and determinations.

The proposed timelines for all dockets would exceed the Division’s existing resources. For example, the Consumer Advocate already struggles to comply with the statutory deadlines for rate proceedings, whether it is a proceeding for a small or large utility company, and especially when multiple rate case applications are being processed at any time. While one might assume that a smaller utility would be easier to process, the records of smaller utility companies are often less organized, and the small utility staff struggles to provide information on a timely basis. In contrast, larger utility companies have more records that need to be analyzed and large utility proceedings involve more complex issues requiring careful analysis. Similarly, in a proceeding involving a large number of parties, the coordination, volumes of information, and processing of the proceeding require more time than a proceeding with a limited number of parties.

The Division is a relatively small organization with only 23 funded positions, and the proposed deadlines would not be manageable. The Consumer Advocate is concerned with the impact S.B. 2022 would have on the Division’s staff and the consumers it represents.

Thank you for this opportunity to testify.

TESTIMONY OF RANDY IWASE
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

February 23, 2018
10:00 a.m.

MEASURE: S.B. No. 2022

TITLE: RELATING TO THE PUBLIC UTILITIES COMMISSION.

Chair Baker and Members of the Committee:

DESCRIPTION:

Establishes a timeframe for the decision-making processes of the Public Utilities Commission. Requires the Commission to establish criteria for prioritizing among multiple proceedings. Requires the Commission to submit a report to the Legislature prior to each regular session on all proceedings that were open at any time during the preceding year.

POSITION:

The Public Utilities Commission ("Commission") **OPPOSES** this bill and offers the following comments for consideration.

COMMENTS:

The Commission shares the interest of the Legislature and the public in timely decision-making and has taken concerted action to expedite decision-making wherever possible. Over the last several years, the Commission has benefited from additional appropriations and resources from the Legislature, which has enabled faster processing of applications and other proceedings. Increasing the efficiency of decision-making remains a high priority for the current Commission.

However, adhering to a one-size-fits-all timeframe may ultimately hinder the Commission's decision-making process as it does not consider the wide variety of dockets and proceedings that come before the Commission. The Commission has

numerous statutory requirements and oversees over 1,750 regulated businesses in Hawaii, spanning disparate industries including electricity, gas, water and wastewater, telecommunications, and transportation. Complex cases, such as rate cases, may require more time, while some other types of proceedings can be adjudicated relatively quickly. The Legislature has already recognized these differences and, pursuant to HRS § 269-16, has provided for an expedited decision-making timeframe for rate cases for smaller utilities with annual revenues < \$2 million, and allowed for a nine-month timeframe for larger utilities with annual revenues > \$2 million.

In addition, the quality of the applicants' filings and testimony can substantially affect the length of time required to evaluate the relevant issues. When the Commission receives completed applications that clearly demonstrate customer value, such applications can be evaluated and approved without the need for extensive discovery or lengthy proceedings.

Furthermore, the Commission prefers to utilize collaborative, open, stakeholder-based processes to resolve complex and novel issues, which necessarily requires time for thoughtful consideration by all parties and a meaningful opportunity to be heard. The Commission has successfully utilized a collaborative approach, including stakeholder meetings, technical conferences, workshops, and other informal discussions, in many investigative dockets, such as the DER policies and demand response (DR) dockets, the Power Supply Improvement Plan (PSIP) docket, and the Community Based Renewable Energy (CBRE) docket.

In all proceedings regardless of type, sufficient time is necessary to analyze potential impacts on customers and ensure that the entities the Commission regulates are serving the public fairly. To arbitrarily impose a single deadline for all dockets is not in the public interest.

With regard to establishing criteria for prioritizing dockets and other proceedings, the Commission notes that it processes hundreds of cases every year and currently prioritizes proceedings by statutory requirements and Legislative guidance, relative complexity of cases, and potential impact on the public or regulated companies. The Commission also considers the expected timeframes of overlapping proceedings, existing workload and resources, and any special requests from applicants for expedited decision making. The Commission is mindful of the priorities the Legislature has expressed with respect to certain initiatives, and this is reflected in the Commission's decision-making.

Regarding the provision requiring a new annual report to the Legislature, the Commission respectfully suggests that the Commission's current annual report fulfills the intent of this requirement. In addition, all the information required by this provision is already publicly available on the Commission's website. The current annual report highlights the breadth and complexity of cases before the Commission, and provides extensive details on the highest priority dockets. As noted in the current annual report, the Commission actively processed 617 dockets during FY 2017. Some of these dockets involved more than a dozen participants and include hundreds of individual actions over the course of the proceeding. Many of these proceedings are ministerial in nature, such as tariff transmittals and certain motor carrier and telecommunications dockets. As a result, a new annual report covering every proceeding that was open at any point in the preceding calendar year, including every participant and all actions taken in the proceeding by all participants, is duplicative, will be burdensome to the Commission, and is unlikely to meet the intent of this bill.

The Commission respectfully requests that this measure be held.

Thank you for the opportunity to testify on this measure.

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

S.B No. 2022

Relating to the Public Utilities Commission

Friday, February 23, 2018

10:00 am

State Capitol, Conference Room 229

Kevin M. Katsura

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

Chair Baker, Vice Chair Tokuda, 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 (collectively the "Companies").

The Companies **support the intent of** S.B. 2022 to improve the efficiency of the regulatory process overseen by the PUC. Timely and consistent decisions made with respect to the rule of law are the key to ensuring that all of Hawaii's utilities are able to conduct business, attract needed capital and work in the best interest of their respective customers. Given the proper resources, the government agencies overseeing public utilities may access procedures already allowed under current statutes and rules that could help to prioritize and improve the regulatory process. Nevertheless, the Companies have some concern that the proposed steps and deadlines in the bill, while well intended, may not be appropriate to all subject matters and, in some cases, may not achieve the overall objective of timely and consistent decisions.

The PUC plays an important role in enforcing the regulatory compact that balances the interests of the ratepayer customers with the financial and operational needs of the regulated public utilities. The social and economic compact of utility

regulation begins with the premise that a regulated utility has an obligation to serve the public. Public utilities are required to provide fair access to service to customers in accordance with approved tariffs. Given the State's goal of 100 percent renewable energy portfolio standard by 2045, timely decisions are critical to allow a utility to plan, invest and/or seek outside capital and investment in order to take appropriate action with the maximum amount of options available to it in the best interests of its customers. The Commission has been focused on increasing efficiencies in issuing decisions, and in fact has done much to reduce the backlog of critical dockets. In general, timely decisions help to reduce the cost for all parties including our customers, aid in more effective planning, and facilitate more rapid progress in achieving State energy goals. We support any actions that would help future Commissions continue to build upon the work of the current Commission.

Along those lines, procedures to better manage the discovery process should be considered. Unlimited discovery increases cost, does not reward or promote efficiency, nor does it effectively advance development of an evidentiary record supportive for informed decision-making.

The PUC has been implementing some procedures to give due process while not delaying the processing of applications. For example:

1. The PUC seems to be prioritizing cases and looking at proportional use of time; moving smaller docketed matters to conclusion earlier.
2. The PUC has considered using hearings officers to move cases along and to allow commissioners to focus on review of important substantive matters where possible and appropriate. The PUC may consider appointing and using a master to oversee information requests to strictly enforce the rules prohibiting time-consuming duplication of discovery efforts. The

Commission has imposed numerical limits on information requests in some circumstances; and

3. The PUC may consider other ways to provide due process while eliminating inefficient and unnecessary discovery processes.

We suggest that a cautious approach must be employed in setting deadlines and prescribing milestones in the regulatory process. Mandatory decisions within weeks or several months in complex matters may place unreasonable burdens on all parties to a docket as well as the Commission and the Consumer Advocate, and may result in less than fully-informed rulings, or encourage denials as the option which may be less risky than approval. Likewise, a fixed schedule may not be suitable for all matters that are regulated by the Commission.

The Companies believe that reasonable timelines for final decisions are most meaningful. However, the Commission should have latitude and discretion on the best process to provide for informed decision-making within that parameter. This will allow the Commission room to consider process improvements consistent with the goal of timely, informed decision-making. The Companies support working with the Commission and the Consumer Advocate and other entities regulated by the Commission to further consider improvements to serve the intent of this bill.

Thank you for this opportunity to testify.



COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAI'I AT MĀNOA

Hawaii Energy Policy Forum

Jeanne Schultz Afuvai, Hawaii Inst. for Public Affairs
David Bissell, Kauai Island Utility Cooperative
Michael Brittain, IBEW, Local Union 1260
Jade Butay, Hawaii Dept of Transportation
Caroline Carl, Hawaii Energy
Albert Chee, Island Energy Services
Elizabeth Cole, The Kohala Center
Kyle Datta, Ulupono Initiative
Richard DeGarmo, Hawaii Gas
Mitch Ewan, UH Hawaii Natural Energy Institute
Jay Fidell, ThinkTech Hawaii
Carl Freedman, Haiku Design & Analysis
Matthias Fripp, REIS at University of Hawaii
Ford Fuchigami, Ofc of Hawaii State Governor
Will Giese, Inter-Island Solar Supply
Dale Hahn, Ofc of US Senator Brian Schatz
Michael Hamnett, SSRI at University of Hawaii
Senator Lorraine Inouye, Hawaii State Legislature
Randy Iwase, Public Utilities Commission
Darren Kimura, Energy Industries
Representative Chris Lee, Hawaii State Legislature
Gladys Marrone, Building Industry Assn of Hawaii
Stephen Meder, UH Facilities and Planning
Sharon Moriawaki, UH Public Policy Center
Rocky Mould, Ofc of Climate Change
Aina Naniolo, Ofc of US Congresswoman Colleen Hanabusa
Ron Nelson, Defense Logistics Energy Agency
Dean Nishina, Division of Consumer Advocacy
Denise Oda, US Department of Agriculture
Stan Osserman, HCATT
Melissa Pavlicek, Hawaii Public Policy Advocates
Randy Perreira, Hawaii Government Employees Assn
Fredrick Redell, Maui County Energy Office
Rick Rocheleau, UH Hawaii Natural Energy Institute
Ross Roley, PACOM
Will Rolston, Hawaii County, Research & Development
Peter Rosegg, Hawaiian Electric Companies
Scott Seu, Hawaiian Electric Companies
Carilyn Shon, Hawaii State Energy Office, DBEDT
Joelle Simonpietri, Simonpietri LLC
Ben Sullivan, Kauai County
Lance Tanaka, Par Hawaii
Maria Tome, Public Utilities Commission
Kirsten Turner, Ofc of US Representative Tulsi Gabbard
Alan Yamamoto, Ofc of US Senator Mazie Hirono

Testimony of John Cole
Chair, Electricity Working Group
Hawaii Energy Policy Forum

To the
Senate Committee on Commerce, Consumer Protection, and Health

February 23, 2018 at 10:00 am in Conference Room 229

**OFFERING COMMENTS ON SB 2022 Relating to The Public Utilities
Commission**

Chair Baker, Vice-Chair Tokuda, and Members of the Committee,

I am John Cole, Chair of the Electricity Working Group of the Hawaii Energy Policy Forum (Forum). The Forum, created in 2002, is comprised of over 40 representatives from Hawaii's electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. Our vision and mission, and comprehensive "10 Point Action Plan" serves as a guide to move Hawaii toward its preferred energy goals and our support for this bill.

HB 2022 establishes a timeframe for the decision-making processes of the Public Utilities Commission. Requires the Commission to establish criteria for prioritizing among multiple proceedings. Requires the Commission to submit a report to the Legislature prior to each regular session on all proceedings that were open at any time during the preceding year.

The Forum offers the following comments:

The Commission deals with a wide variety of proceedings and dockets. Some are somewhat perfunctory (for example, some motor carrier matters), and others are highly complex and deliberative (for example, some investigations and change of ownership proceedings). To apply a single standard timeframe to all proceedings could lead to less stakeholder input, and the formulation of decisions based on less than complete evidence in some of the Commission's most important proceedings. Given its current resources, the Commission performs an astounding amount of work, and is well aware of the need to provide decisions in as timely a manner as possible. Increasing the Commission's resources and staff may be a better way to improve its efficiency and timeliness.



COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAI'I AT MĀNOA

Hawaii Energy Policy Forum

Jeanne Schultz Afuwai, Hawaii Inst. for Public Affairs
David Bissell, Kauai Island Utility Cooperative
Michael Brittain, IBEW, Local Union 1260
Jade Butay, Hawaii Dept of Transportation
Caroline Carl, Hawaii Energy
Albert Chee, Island Energy Services
Elizabeth Cole, The Kohala Center
Kyle Datta, Ulupono Initiative
Richard DeGarmo, Hawaii Gas
Mitch Ewan, UH Hawaii Natural Energy Institute
Jay Fidell, ThinkTech Hawaii
Carl Freedman, Haiku Design & Analysis
Matthias Fripp, REIS at University of Hawaii
Ford Fuchigami, Ofc of Hawaii State Governor
Will Giese, Inter-Island Solar Supply
Dale Hahn, Ofc of US Senator Brian Schatz
Michael Hamnett, SSRI at University of Hawaii
Senator Lorraine Inouye, Hawaii State Legislature
Randy Iwase, Public Utilities Commission
Darren Kimura, Energy Industries
Representative Chris Lee, Hawaii State Legislature
Gladys Marrone, Building Industry Assn of Hawaii
Stephen Meder, UH Facilities and Planning
Sharon Moriwiki, UH Public Policy Center
Rocky Mould, Ofc of Climate Change
Aina Naniolo, Ofc of US Congresswoman Colleen Hanabusa
Ron Nelson, Defense Logistics Energy Agency
Dean Nishina, Division of Consumer Advocacy
Denise Oda, US Department of Agriculture
Stan Osserman, HCATT
Melissa Pavlicek, Hawaii Public Policy Advocates
Randy Perreira, Hawaii Government Employees Assn
Fredrick Redell, Maui County Energy Office
Rick Rocheleau, UH Hawaii Natural Energy Institute
Ross Roley, PACOM
Will Rolston, Hawaii County, Research & Development
Peter Rosegg, Hawaiian Electric Companies
Scott Seu, Hawaiian Electric Companies
Carilyn Shon, Hawaii State Energy Office, DBEDT
Joelle Simonpietri, Simonpietri LLC
Ben Sullivan, Kauai County
Lance Tanaka, Par Hawaii
Maria Tome, Public Utilities Commission
Kirsten Turner, Ofc of US Representative Tulsi Gabbard
Alan Yamamoto, Ofc of US Senator Mazie Hirono

Finally, there are already statutory timeframes for some types of proceedings, such as utility rate cases.

Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies



Email: communications@ulupono.com

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, & HEALTH
Friday, February 23, 2018 — 10:00 a.m. — Room 229

Ulupono Initiative has Comments on SB 2022, Relating to the Public Utilities Commission

Dear Chair Baker, Vice Chair Tokuda, 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 firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and better management of waste and fresh water. Ulupono believes 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 provides comments on SB 2022, which establishes a timeframe for Public Utilities Commission (PUC) decision making, because it aligns with our goal of increasing the production of clean, renewable energy in Hawai'i.

While we understand the intent of the bill is to hold the PUC more accountable to make timely decisions and move dockets along at an accelerated rate, the bill does not consider the nuance between the scale and magnitude of different PUC decisions. This may lead to unintended consequences.

Specifically, certain types of PUC issues related to regulation of energy, such as mergers, rate cases, and complex rule making on addressing the new utility business model issues, such as the Power Supply Improvement Plan (PSIP), Grid Modernization, distributed energy resources, two way tariffs and stranded costs, simply do not fit into the standardized timeline. Further, these issues require greater input from the stakeholders and more deliberative processes.

What the Legislature has not considered is the impact on other regulatory bodies, such as the Consumer Advocate, which would now have to meet these timelines, when they are already overworked, and there is no provision of additional resources. This is contrary to the meticulous review that the Consumer Advocate provides, and will lead to less rigorous reviews.

Investing in a Sustainable Hawai'i



Other PUC decisions and approvals could be standardized, and the PUC is undoubtedly best positioned to provide input on what decisions would fit into this format.

As Hawai'i's energy issues become more complex and challenging, we appreciate this committee's efforts to look at policies that support renewable energy production.

Thank you for this opportunity to testify.

Respectfully,

Kyle Datta
General Partner