

LATE

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TO THE SENATE COMMITTEE ON
WAYS AND MEANS

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Wednesday, February 21, 2018
10:08 a.m.

WRITTEN TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR,
AND MEMBERS OF THE COMMITTEE

SENATE BILL NO. 2939, S.D.1 – RELATING TO ENERGY.

DESCRIPTION:

This measure requires the Public Utilities Commission (“Commission”) to establish performance incentive and penalty mechanisms that directly tie electric utility revenues to the utility’s achievement on performance metrics. This measure requires the PUC to implement these mechanisms no later than January 1, 2020. S.D. 1 amends this measure by clarifying the performance metrics the Commission would consider, as identified in prior testimony.

POSITION:

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

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.

Thank you for this opportunity to testify.



SIERRA CLUB OF HAWAII
MĀLAMA I KA HONUA. *Cherish the Earth.*

LATE

SENATE COMMITTEE ON WAYS AND MEANS

Wednesday, February 21, 2018 10:08AM Conference Room 211

In SUPPORT of SB 2939 SD1 Relating to energy

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and members of the Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i, a member of the Common Good Coalition, **supports SB 2939 SD1**, which would amend §269 to include language that will designate the Public Utilities Commission (PUC) 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.

We support any type of performance based ratemaking (PBRM) schema, performance incentive mechanism (PIM), or ratemaking structure that incents the accelerated build out of renewable energy. Modern public utilities must be held accountable for their actions and must be regulated in such a way that benefits the average consumer and the state as a whole. PBRM or any structure similar to PBRM helps develop benchmarks, incentives, and mechanisms that rewards a utility for building or encourage technology that benefits the public as a whole.

This measure specifically sets out certain benchmarks and performance mechanisms consistent with both state goals and longstanding regulatory guidance, specifically released by the PUC. Of note are specific guidance regarding the expedited accomplishment of state energy goals and data gathering for smarter energy policy formation. As noted in a recent Lawrence Berkeley National Lab Study, "PBRM's appeal lies chiefly in its ability to strengthen utility performance incentives relative to traditional cost-of-service regulation (COSR)."¹ Future energy policy scenarios that envision high amounts of renewable energy, distributed or otherwise, and energy efficiency would be much better served by rate making policies that incentivize them. In much

¹ Newton Lowry, Mark, and Tim Woolf. PERFORMANCE-BASED REGULATION IN A HIGH DISTRIBUTED ENERGY RESOURCES FUTURE. Lawrence Berkeley National Lab, 1 Jan. 2016

the same way that COSR has served traditional, fossil fuel burning utility ratemaking, PBRM are the regulatory key to the energy puzzle.

We **strongly support SB 2939 SD1** and urge the committee to pass this measure.



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**TESTIMONY OF THE HAWAII SOLAR ENERGY ASSOCIATION
IN REGARD TO SB 2939 SD1, RELATING TO ENERGY
BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS
ON
WEDNESDAY, FEBRUARY 20, 2018**

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

HSEA **supports** SB 2939 SD1 with comments. This measure requires 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. Allows the public utilities commission to delay implementation until no later than January 1, 2020.

These amendments are in line with issues surrounding the Commission's "Inclinations" docket released on April 28th, 2014.¹ 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.² 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 SB 2939 SD1, 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 SB 2939 SD1 should be adopted. We have recently closed the 4th 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 approved and ratified by the Public Utilities Commission in part,

¹ 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.

² 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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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”.³ 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. SB 2939 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.⁴ 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.”⁵ 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)

³ 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.





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

⁵ 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** SB 2939 SD1 and urge the committee to pass this bill.

Thank you for the opportunity to testify.