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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Ways and Means
Thursday, February 28, 2019
10:30 a.m.
State Capitol, Conference Room 211**

**On the following measure:
S.B. 1293, S.D. 1, RELATING TO A MUTUAL ASSISTANCE AGREEMENT**

WRITTEN TESTIMONY ONLY

Chair Dela Cruz and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy (Division). The Department supports this bill.

The purpose of this bill is to authorize the State to enter into a mutual assistance agreement with an out-of-state utility to restore the State's electrical power, without regard to any regulatory law, during an emergency or a natural disaster.

The Department recognizes the urgency of repair whenever an emergency or a natural disaster may cause overwhelming damage to the electrical grids on which all of Hawaii depends, as well as the increasing frequency of powerful storms due to the effects of global climate change. Mutual assistance agreements are one important class of mechanisms that will speed the resilience and restoration of utility service to customers, with which the Division is especially concerned. The exemptions from and

exceptions to rules that may slow or hinder out-of-state assistance in limited circumstances, as proposed in this bill, are reasonable and measured.

Thank you for the opportunity to testify on this bill.

SB-1293-SD-1

Submitted on: 2/26/2019 6:55:08 PM

Testimony for WAM on 2/28/2019 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



Testimony to the Senate Committee on Ways and Means

Thursday, February 28, 2019, 10:30 a.m.
Conference Room 211, State Capitol
RE: Senate Bill 1293 SD1

Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee on Ways and Means

Hawaii Gas **supports** SB1293 SD1, and provides the following **comments to the bill**:

Hawaii Gas (HG) has been serving customers throughout the state for 115 years and provides a critical layer of resiliency to the state’s energy portfolio. It is the only government franchised full service gas utility with underground pipeline infrastructure, producing and distributing gas products and providing related services. Unlike other gas utilities, the majority of HG’s products are made locally through our Synthetic Natural Gas (SNG) Plant, located in Campbell. The SNG Plant takes naphtha, a byproduct from the next-door refinery, to make synthetic natural gas for our utility customers. In late 2018, our company also began producing the state’s first renewable natural gas (RNG) through waste biogas from the City & County of Honolulu’s Honouliuli Wastewater Treatment Plant in Ewa Beach. The Honouliuli plant is unique, as very few RNG facilities are built for gas utility customers. Our company continues to play a small, yet essential role in Hawaii as a resilient energy source that is also clean and cost-efficient.

The U.S. Department of Defense, U.S. Department of Homeland Security other federal agencies, state and county governments recognize the interrelated segments: electricity, oil natural gas as part of the energy infrastructure system. Without a stable energy supply, health and welfare are threatened, and the economy cannot function.¹

Mutual aid assistance is a common practice among utilities across the U.S. and its territories. Utilities across the country have been providing mutual aid to each other during emergencies for years. Ensuring that we prepare for and have appropriate responses to secure energy and grid reliability will help address how we can respond to larger-scale emergencies, coordinated better across jurisdictions and how mutual assistance may also be used to address less-understood threats like cyberattacks or large-scale acts of terrorism.

¹ U.S. Department of Homeland Security, Cyber and Infrastructure Security Agency, Energy Sector, <https://www.dhs.gov/cisa/energy-sector>



There are a number of reasons why federal, state and local governments consider natural gas systems as a critical part of energy security.

- The physical operations of natural gas production, transmission and distribution make the system inherently reliable and resilient.
- Natural gas pipelines are mostly underground and protected from weather and other elements.
- Disruptions to natural gas service are rare.
- Natural gas storage helps provide energy and economic security for commerce and consumers to recover in the event of disasters and emergencies.

We support the SD1 changes to this bill and urge your support.

Thank you for the opportunity to testify.

Sincerely,

Jeannine A. Souki
Director, Government Affairs and Corporate Communications

LATE

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS**

S.B. 1293, SD 1

Relating to Mutual Assistance Agreement

Decision Making Only
Monday, February 28, 2019
10:30 am, Agenda Item #21
State Capitol, Conference Room 211

Written Testimony in Support with Requested Amendments

Carina Y. Ohara
Senior Associate General Counsel
Hawaiian Electric Company, Inc.

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

My name is Carina Ohara and I am testifying on behalf of Hawaiian Electric Company, Inc. and its subsidiary utilities Maui Electric Company and Hawai'i Electric Light Company (collectively "the Hawaiian Electric Companies") **in strong support of SB 1293 SD1, Relating to Mutual Assistance Agreement and respectfully requests consideration of the attached amendments which adds gas utility to the agreement.**

S.B. 1293, HD1 will ensure that upon the occurrence of natural disaster or emergency, Hawaii's utility companies will be able to seek assistance and support from out-of-state experienced qualified utility workers to timely and safely restore Hawaii's critical infrastructure back to operational conditions, should our in-state resources be insufficient to meet the needs of all our customers, including residents, businesses and the federal, state, and county governments.

Hawaii's regulated utility companies, which include Hawaiian Electric Companies, Kauai Island Utility Cooperative, and Hawaii Gas, are members of Western Region Mutual Assistance Group, a group made up of public and private utilities companies across the United States and Canada. As a member, Hawaii's utility companies are able to call on other member utilities to provide their experienced and qualified utility workers to assist in restoration efforts following emergencies or disasters if such restoration efforts require resources beyond what the affected utility is able to mobilize to ensure safe and timely restoration of critical infrastructure. This agreement specifically provides that the mobilized out-of-state utility workers who provide assistance will remain employees of their home utility and will return to their home state upon completion of their restoration support.

A recent example of assistance being provided under this mutual assistance program is Hawaiian Electric Companies mobilizing 30 of its experienced linemen to Northern California to support PG&E's restoration efforts following the Camp Fire destruction.

Hawaiian Electric Company would like to be able to seek assistance from out-of-state utilities should we ever experience widespread damage and destruction following an emergency or disaster. If we experience significant impact and devastation to our electrical infrastructure, being able to count on additional experienced and qualified utility workers to supplement our in-state resources when our in-state resources maybe insufficient will be critical to our ability to safely, expeditiously, and effectively restore operations and provide electrical services to our customers.

However, with Hawaii's regulatory and licensing requirements applicable to utility workers such as electricians' license and commercial drivers' license, out-of-state utility

workers who are otherwise experienced and qualified to perform work on utility infrastructure will not be able to come to Hawaii to provide aid without violating State laws. These regulations, while necessary, will also hinder or prevent Hawaii's utility companies from being able to safely, expeditiously, and effectively restore Hawaii's critical infrastructure following devastating disasters or emergencies by limiting the otherwise available assistance from out-of-state experienced and qualified utility workers. Should SB 1293 become law, upon declaration of state of emergency, the Governor will have the authority to suspend the application of these types of regulatory laws that cannot be complied with in the period of time required to mobilize out-of-state utility workers to support our restoration efforts.

Hawaiian Electric seeks to clarify SB No 1293 SD 1 by removing all reference to "energy providers," an undefined and potentially very broad term, and insert addition of "natural gas" to clarify that the utilities affected by this bill will only be those public utilities within the State under a franchise or charter granted by the State to provide electrical or gas services, and are under the oversight of the State of Hawaii Public Utilities Commission.

Accordingly, the Hawaiian Electric Companies strongly supports SB 1293 SD 1, and respectfully request your consideration of our proposed amendments. Thank you for this opportunity to testify.

A BILL FOR AN ACT

RELATING TO A MUTUAL ASSISTANCE AGREEMENT.

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

SECTION 1. In 2006, the legislature approved the emergency management assistance compact, allowing the State to become a member with forty-nine other states, the District of Columbia, Puerto Rico, and the Virgin Islands. As a member of the compact, the State would be able to receive interstate aid in the event of a disaster. In approving the compact, the legislature recognized that while Hawaii may be capable of managing most emergencies, there may be times when disasters exceed state and local resources, therefore requiring outside assistance. The legislature recognized that such outside assistance is especially crucial for a geographically isolated state such as Hawaii.

For many critical infrastructure providers, particularly public utility providers, in a time of a major natural disaster or emergency, one priority is the restoration of utilities to ensure the public has available resources it needs to recover from any disaster. For utilities, one major concern is being

able to safely and timely respond to all customers' needs, including residents, businesses, and government agencies, following any disaster. While Hawaii's utility providers are reliable, if a disaster like hurricane Maria in Puerto Rico hit Hawaii, the State's utility providers may need to seek assistance from outside of the State.

The legislature further finds that all Hawaii based public utility providers are members of the Western Region Mutual Assistance Agreement (WRMAA), an agreement between public electric and gas utilities throughout the continental United States and certain Canadian utilities, to make their resources available in the event of emergencies or disasters. The Hawaiian Electric Companies have been signatories of the WRMAA since 2006, with the Kauai Island Utility Cooperative becoming a signatory on August 6, 2013. Hawaii Gas has been a signatory to the WRMAA as of November 13, 2003. Under the terms of the WRMAA, the Hawaiian Electric Companies provided support to Pacific Gas and Electric in November of 2018, by sending a team of thirty-five linemen and support staff to assist in recovery after the camp fire that devastated the town of Paradise, California. In the event that the State suffers devastating effects from a disaster, out of state public utilities are willing and able to provide the State with similar support. This Act will ensure that in times of an emergency, qualified utility workers from outside of the State would be

able to provide their services in the State to help restore utilities to operating condition.

The purpose of this Act is to ensure that in times of emergencies or natural disasters that the State and public utilities in the State are allowed to enter into a mutual assistance agreement with an out of state utility to assist in the restoration of utility services.

SECTION 2. Section 127A-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from natural or man-made hazards, and in order to ensure that the preparations of this State will be adequate to deal with such disasters or emergencies; to ensure the administration of state and federal programs providing disaster relief to individuals; and generally to protect the public health, safety, and welfare and to preserve the lives and property of the people of the State, it is hereby found and declared to be necessary:

(1) To provide for emergency management by the State, and to authorize the creation of local organizations for emergency management in the counties of the State;

(2) To confer upon the governor and upon the mayors of the counties of the State the emergency powers necessary to prepare for and respond to emergencies or disasters;

(3) To provide for the rendering of mutual aid among the counties of the State and with other states and in cooperation with the federal government with respect to the carrying out of emergency management functions; ~~and~~

(4) To permit out of state utilities to provide services in the State pursuant to a mutual assistance agreement with a state utility to repair, renovate, or install electrical or natural gas facilities that have been damaged, impaired, or destroyed due to or in connection with natural disasters or emergencies; and

~~[(4)]~~ (5) To provide programs, in cooperation with other governmental agencies, the private sector, and nonprofit organizations, to educate and train the public to be prepared for emergencies and disasters."

SECTION 3. Section 127A-2, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:

"Electrical or gas facilities" means any equipment and infrastructure owned and operated by a state utility for the purpose of generating, transmitting, distributing, or furnishing electrical or natural gas service.

"Mutual assistance agreement" means an agreement to which two or more business entities are parties and under which any public utility, municipally owned utility, electric cooperative, natural gas special district, natural gas transmission pipeline, or joint agency owning or operating infrastructure used for electric generation, natural gas production, electric or natural gas transmission, or electric or natural gas distribution in this State, may request that an out of state utility perform work in this State in anticipation of a natural disaster or emergency.

"Out of state utility" means any public utility, municipally owned utility, electrical cooperative, or natural

gas special district that owns or operates infrastructure used for electric generation, natural gas production, electric or natural gas transmission, or electric or natural gas distribution outside of the State, and is regulated by the public utilities commission of the state in which it operates.

"Public utility" has the same meaning as in section 269-1.

"Utility facilities" means any equipment and infrastructure owned and operated by any public utility for the purpose of generating, transmitting, distributing, or furnishing electric or natural gas utility service."

SECTION 4. Section 127A-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the event of a state of emergency declared by the governor pursuant to [+]section[+] 127A-14, the governor may exercise the following additional powers pertaining to emergency management during the emergency period:

(1) Provide for and require the quarantine or segregation of persons who are affected with or believed to have been exposed to any infectious, communicable, or other disease that is, in the governor's opinion, dangerous to the public health and safety, or persons who are the source of other contamination, in any case where, in the governor's opinion, the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections 325-32 to 325-38 concerning compulsory immunization programs; provide for the isolation or closing of property which is a source of contamination or is in a

dangerous condition in any case where, in the governor's opinion, the existing laws are not adequate to assure the public health and safety, and designate as public nuisances acts, practices, conduct, or conditions that are dangerous to the public health or safety or to property; authorize that public nuisances be summarily abated and, if need be, that the property be destroyed, by any police officer or authorized person, or provide for the cleansing or repair of property, and if the cleansing or repair is to be at the expense of the owner, the procedure therefor shall follow as nearly as may be the provisions of section 322-2, which shall be applicable; and further, authorize without the permission of the owners or occupants, entry on private premises for any such purposes;

(2) Relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the governor to exist in the laws and to result from the operation of federal programs or measures taken under this chapter, by suspending the laws, in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the governor may impose, including licensing laws, quarantine laws, and laws relating to labels, grades, and standards;

(3) Suspend any law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel;

(4) Suspend the provisions of any regulatory statute prescribing the procedures for out of state utilities to conduct business in the State, including any licensing laws applicable to out of state utilities or their respective employees, as well as any orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulations would in any way prevent, hinder, or delay necessary action of a state utility in coping with the emergency or natural disaster with assistance that may be provided under a mutual assistance agreement;

~~[(4)]~~ (5) In the event of disaster or emergency beyond local control, or an event which, in the opinion of the governor, is such as to make state operational control necessary, or upon request of the local entity, assume direct operational control over all or any part of the emergency management functions within the affected area;

~~[(5)]~~ (6) Shut off water mains, gas mains, electric power connections, or suspend other services, and, to the extent permitted by or under federal law, suspend electronic media transmission;

~~[(6)]~~ (7) Direct and control the mandatory evacuation of the civilian population;

~~[(7)]~~ (8) Exercise additional emergency functions to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and

notwithstanding any other law to the contrary, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto;

~~[(8)]~~ (9) Suspend section 8-1, relating to state holidays, except the last paragraph relating to holidays declared by the president, which shall remain unaffected, and in the event of the suspension, the governor may establish state holidays by proclamation;

~~[(9)]~~ (10) Adjust the hours for voting to take into consideration the working hours of the voters during the emergency period, and suspend those provisions of section 11-131 that fix the hours for voting, and fix other hours by stating the same in the election proclamation or notice, as the case may be;

~~[(10)]~~ (11) Assure the continuity of service by critical infrastructure facilities, both publicly and privately owned, by regulating or, if necessary to the continuation of the service thereof, by taking over and operating the same; and

~~[(11)]~~ (12) Except as provided in section 134-7.2, whenever in the governor's opinion, the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition, inflammable materials and other objects,

implements, substances, businesses, or services of a hazardous or dangerous character, or particularly capable of misuse, or obstructive of or tending to obstruct law enforcement, emergency management, or military operations, including intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any such objects, implements, or substances unlawfully possessed, as provided in this chapter."

SECTION 5. Section 127A-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The governor or mayor shall be the sole judge of the existence of the danger, threat, or circumstances giving rise to a declaration of a state of emergency in the State or a local state of emergency in the county, as applicable. This section shall not limit the power and authority of the governor under section [~~127A-13(a)(4).~~] 127A-13(a)(5)."

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.