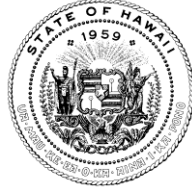


# SB1469

Measure Title:	RELATING TO PUBLIC UTILITY INFRASTRUCTURE.
Report Title:	Public Utilities Commission; Utility Infrastructure; Dark Fiber; Conduit; Broadband
Description:	Requires the public utilities commission to determine whether the implementation of a cost recovery and income generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public interest. Requires the public utilities commission to report on economic incentives, cost recovery mechanisms considered, and the financial impacts where implemented.
Companion:	<a href="#">HB1384</a>
Package:	None
Current Referral:	CPH, WAM
Introducer(s):	KEITH-AGARAN, BAKER



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Commerce, Consumer Protection, and Health  
Tuesday, February 12, 2019  
9:00 a.m.  
State Capitol, Conference Room 229**

**On the following measure:  
S.B. 1469, RELATING TO PUBLIC UTILITY INFRASTRUCTURE**

Chair Baker and Members of the Committee:

My name is Ji Sook “Lisa” Kim, and I am the Cable Administrator of the Department of Commerce and Consumer Affairs’ (Department) Cable Television Division. The Department supports this bill.

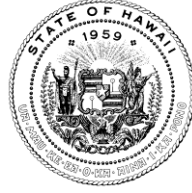
The purpose of this bill is to require the Public Utilities Commission to: (1) determine whether the implementation of a cost recovery and income generating mechanism of leasing temporarily available, unused fiber, conduit, and other infrastructure is in the public interest; and (2) include in its annual report a summary of economic incentives, cost recovery, and income generating mechanisms considered, and the fiscal impacts where implemented.

Consistent with its broadband-related duties, the Department continuously looks for best practices that may help facilitate affordable, accessible broadband services for unserved and underserved areas of Hawaii. Leasing temporarily available, unused ratepayer-funded utility infrastructure, such as dark fiber and conduit space, was

presented to, and discussed by, the Broadband Assistance Advisory Council, established by Act 199 (Session Laws of Hawaii 2010) to advise the Department on policies to expedite deployment of affordable and accessible broadband services, as a means to make available existing infrastructure that could lower costs for and speed broadband deployment to unserved and underserved areas, particularly those currently served only by a public utility. For example, the leasing of existing unused fiber would allow broadband providers to avoid much of the time consuming and costly pole attachment, pole make-ready, and excavation costs and processes required for new fiber installations, while also generating revenues for the ultimate benefit of the public utility's ratepayers.

The Department thus supports this measure as a possible means to increase broadband penetration and improve available service speeds at affordable prices to unserved and underserved areas across the State.

Thank you for the opportunity to testify on this bill.



**LATE**

DAVID Y. IGE  
GOVERNOR

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**Before the  
Senate Committee on Commerce, Consumer Protection, and Health  
Tuesday, February 12, 2019  
9:00 a.m.  
State Capitol, Conference Room 229**

**On the following measure:  
S.B. 1469, PUBLIC UTILITY INFRASTRUCTURE**

Chair Baker 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. The Department supports this bill.

The purpose of this bill is to require the Public Utilities Commission (Commission) to determine whether the implementation of an additional cost recovery and revenue generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public interest and to include information on those regulatory mechanisms in the Commission's annual report.

The Department recognizes the potential benefits that broadband infrastructure can bring to the State and also acknowledges that if existing broadband infrastructure already exists, especially in rural or remote areas, but the capacity is being unused, the State, residents, and businesses will not be able to take advantage of the available infrastructure. Even though electric utility companies should already be encouraged to

maximize the use of its regulated infrastructure, if there is unused capacity in infrastructure that can be used for broadband purposes, it would be in the public interest to determine whether there are cost-effective means of encouraging electric utility companies to maximize the use of that available infrastructure, as long as it does not adversely affect the provision of electric service. The ability to recover any such infrastructure costs already exists, but investigating this matter could benefit both the utility, its customers, and the State's efforts to advance broadband availability.

For the above reasons, the Department supports the measure but respectfully suggests that the Committee amend subsection (d)(5) on page 7, lines 10-15 to eliminate possible confusion about whether the Legislature is seeking to maximize infrastructure investment or maximize the utilization of already existing infrastructure. One of the common issues before the Commission is whether a utility company may be planning or has already installed capital projects that exceed the reasonably forecasted needs for its customers, which causes rates to increase for excess capacity to the customers' detriment. To address this issue, subsection (d)(5) should be amended to read: "The establishment of an incentive regulatory mechanism to encourage public utilities to maximize the use of existing infrastructure, such as to lease unused or temporarily available infrastructure in a manner that is compatible with utility operations and substantially benefits the ratepayer."

Thank you for the opportunity to testify on this bill.

TESTIMONY OF  
JAMES P. GRIFFIN, Ph.D.  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII

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

February 12, 2019  
9:00 a.m.

Chair Baker and Members of the Committee:

**MEASURE:** S.B. No. 1469

**TITLE:** RELATING TO PUBLIC UTILITY INFRASTRUCTURE.

**DESCRIPTION:** Requires the public utilities commission to determine whether the implementation of a cost recovery and income generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public interest. Requires the public utilities commission to report on economic incentives, cost recovery mechanisms considered, and the financial impacts where implemented.

**POSITION:**

The Public Utilities Commission offers the following comments for consideration.

**COMMENTS:**

The Public Utilities Commission (“Commission”) is supportive of public utilities seeking additional revenue generating opportunities, such as through leasing unused fiber optic capacity and other available infrastructure.

However, additional cost recovery mechanisms may not be necessary for public utilities to seek such revenue generating opportunities. A statutory requirement for the Commission to develop cost recovery mechanisms may actually work against the intent of this measure to reduce costs to customers. As such, the Commission respectfully recommends a resolution may be an appropriate means to provide legislative guidance on this matter.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE  
GOVERNOR

MIKE MCCARTNEY  
DIRECTOR

## DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of  
**MIKE MCCARTNEY**  
Director

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**

Tuesday February 12, 2019  
9:00 a.m.  
State Capitol, Conference Room 229

**LATE**

In consideration of  
**SB 1469**  
**RELATING TO PUBLIC UTILITY INFRASTRUCTURE.**

Chair Baker, Vice Chair Chang and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) **Offers Comments** on SB1469 which requires the public utilities commission to determine whether the implementation of a cost recovery and income generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public interest and requires the public utilities commission to report on economic incentives, cost recovery mechanisms considered, and the financial impacts where implemented.

As recognized by the Hawaii Broadband Initiative the intent of this measure would promote the State's goals to increase broadband penetration, improve available service speeds, and foster competition to increase broadband access in the State at affordable prices.

However, this can be done without putting a cost recovery mechanism in statute, and without requiring the PUC to conduct a study.

Thank you for the opportunity to offer comments.

**LATE**

**Testimony of Hawaiian Electric Companies  
Before the  
Senate Committee on Commerce, Consumer Protection, and Health**

February 12, 2019  
9:00 a.m.  
State Capitol, Conference Room 229

**On the following measure:  
S.B. 1469, Public Utility Infrastructure**

By: Mindy E. Hartstein  
Director of Pole Infrastructure Enterprise  
Hawaiian Electric Companies

Aloha Chair Baker and Members of the Committee:

My name is Mindy E. Hartstein, and I am testifying on behalf of the Hawaiian Electric Company, Inc., Maui Electric Companies, Limited, and Hawaii Electric Light Company, Inc. (collectively the “Hawaiian Electric Companies or “Companies”) supporting the intent of the bill with comments.

The purpose of this bill is to require the Public Utilities Commission (Commission) to determine whether the implementation of an additional cost recovery and revenue generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public’s interest and to include information on those regulatory mechanisms in the Commission’s annual report.

The Companies are pursuing leasing temporarily available optical fiber in an effort to pursue new business opportunities to generate additional revenues for the benefit of the Companies and its ratepayers, as well as to promote broadband service statewide. The Companies possess temporarily available fiber across all three service territories, a percentage of which is located in rural and remote areas; however, the Companies do not plan for or install capital projects that exceed the reasonably



forecasted needs of its customers. Minimizing the need for additional broadband infrastructure by maximizing the use of existing infrastructure advances the State's efforts to quickly deploy broadband availability statewide by reducing the time and costs involved for broadband providers. The Companies view the opportunity to license existing utility property for other purposes, without interfering with the Companies' operation or provision of service, as a win-win opportunity benefitting all.

The Companies recently filed Docket No. 2019-0032 with the Public Utilities Commission ("Commission"), with its template master license agreement and guidelines for pole attachments ("MLA for Pole Attachments") to distribution poles and street light poles owned by the Companies. The MLA for Pole Attachments will be required for telecommunications providers to legally attach wireless and wireline equipment to the Companies' poles. The MLA for Pole Attachments treats all similarly situated providers equally. Similarly, the Companies are currently engaged in the process of developing a template master license agreement and guidelines for the licensing of temporarily available fiber (MLA for Fiber). Due to security, safety, construction, and maintenance concerns, a separate MLA for Fiber is required and the Companies seek to file this with the Commission in 2019. Additionally, the Companies need to determine the impacts imposed by financing the Companies' projects for poles, underground conduits, and fiber infrastructure by Special Purpose Revenue Bonds, which bonds currently do not allow the use or licensing of such infrastructure by third parties (potentially contrary to the FCC provisions of access).

***The Companies propose that any deliberation over implementation of additional cost recovery or revenue generating mechanisms related to leasing***

***temporarily available, unused cable, conduit and fiber occur during the docket process, instead of tasking the Commission with researching, comparing concepts, and providing annual reporting on its findings.*** The Companies will be stating its case in such docket together with any economic incentives, cost recovery and income generating mechanisms the Companies believe is necessary and appropriate. As the Companies' continue to expand leveraging its existing and new infrastructure beyond traditional electric utility service under the new Pole Infrastructure Enterprise division and its business model, the Companies are keenly aware of the tangible and intangible benefits to many parties, particularly the ratepayers, and believe the docket would be the most appropriate place to consider all options and hear from all the parties involved.

Accordingly, the Companies support S.B. 1469 with comments. Thank you for the opportunity to testify.