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

**Before the**  
**House Committee on Consumer Protection & Commerce**  
**Tuesday, February 28, 2023**  
**2:00 p.m.**  
**Conference Room 329**

**On the following measure:**  
**H.B. 368, RELATING TO THE PUBLIC UTILITIES COMMISSION**

Chair Nakashima and Members of the Committee:

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

The purpose of this bill is to: (1) mandate that reports required by the Public Utilities Commission (Commission) through an order and not required by statute expire one year after the issuance of the order; and (2) allows continuation of the reporting requirement if a new order is issued and justification for the continuance is provided.

While the Department understands the desire to lessen regulatory requirements on public utilities where warranted, which appears to be the intent of this bill, the Department believes that the bill as written may prevent the Commission and Department from fulfilling its duties and responsibilities, will be unduly administratively burdensome on the Commission, create confusion about filing requirements, and shifts the burden of proof from the applicant to the decision maker.

There are reports that are important and critical to ensure compliance with the public interest and state goals that require annual reporting that should not terminate until further ordered. For instance, the state has established renewable portfolio standards (RPS) requiring the electric utilities to move towards 100% renewable energy. One of the key tools to measure compliance with the RPS is the reporting requirement established in the Framework for Renewable Portfolio Standards, which was adopted by Order in Docket No. 2007-0008. Similarly, in support of Hawaii's clean energy transition and the timely interconnection of distributed energy resources, the Commission has required reports providing data on the status of the interconnection of distributed energy resource systems. Another example where reports beyond a single year is in the public interest is when a utility may have experienced financial difficulties. In these situations, it is prudent to require reporting of certain financial information until there is assurance that further monitoring is not required. If the reporting were to stop after only one year even if insufficient data were available to support a conclusion that concerns have been allayed, this would not be in the public interest. If this measure is adopted, these and similar reports would be terminated within a year, unless the Commission took action every year to ensure the continuation of such reports.

As noted above, there are certain reports that should not expire after one year after the issuance of a Commission order. While the regulated entities might argue that a new order could re-establish the reporting requirement, this would be administratively inefficient for the Commission and/or interested stakeholders. If the proposed measure is adopted, the Commission would need to issue a new order every year just to continue the report for another 12 months even if the reporting requirement is for an annual report, i.e., a single report, as opposed to say, a monthly report. If adopted, it might require stakeholders, such as the Department, to make annual filings providing justification for the continuation of the report, which would actually lead to inefficiencies.

The proposed expiration of a reporting requirement one year after the issuance of an order requiring the report could also create confusion in situations where the matter of reporting, event, or data is not yet available. For instance, for applications related to capital improvement projects requiring Commission approval, the Commission generally

requires a final report that is required to provide the actual costs incurred to finish the project and an explanation for any variances greater than 10% of the project cost approved by the Commission. Since the completion of these projects often are not completed 12 months after the Commission has filed its approval order, the expiration of the reporting requirement would occur before the project is even completed, which would frustrate the intent of receiving a report on cost overruns that may be contrary to the consumers' interests. Another example relates to reporting requirements during a pilot program. In order to evaluate whether pilot programs should be "upscaled" into full programs, data should be collected and reported to determine whether such pilots are in the public interest. Since many pilots last for more than 12 months, the proposed measure could create confusion about how to report the data related to such a program.

Finally, the Commission's adoption of a reporting requirement should be assumed to serve a public interest purpose that the regulated entity could not address at the time of the application. Thus, the report allows monitoring meant to ensure that the public interest is maintained. Allowing such reports to terminate simply because 12 months has passed and without any other justification would result in putting the Department and/or the Commission in a position to justify why the report should continue. Further, since the proposed language would require the Commission to justify why the report should be continued, this would essentially shift the burden of proof from the regulated entity, which is not in the public interest. Instead, the Department respectfully offers that it would be consistent with current practice to rely on the process where the regulated entity could request confirmation from the Commission that a reporting requirement can be terminated instead of placing the burden of proof on the Commission to justify the continuation of a report. The Department respectfully offers that this seems to be a much more administratively efficient process for the Commission.

The Department respectfully offers that the proposed measure would result in a number of unintended consequences not in the public interest.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF  
LEODOLOFF R. ASUNCION, JR.  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII

TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

February 28, 2023  
2:00 p.m.

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

**MEASURE:** H.B. No. 368

**TITLE:** RELATING TO THE PUBLIC UTILITIES COMMISSION.

**DESCRIPTION:** Provides that reports required by the public utilities commission through an order and not required by statute expire one year after the issuance of the order. Allows continuation of the reporting requirement if a new order is issued and justification for the continuance is provided.

**POSITION:**

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

**COMMENTS:**

The Commission appreciates the intent of this measure to streamline reporting requirements and otherwise reduce the number of reports that utilities are required to file.

The Commission agrees that streamlining and updating utility reporting requirements promotes administrative efficiency. Through the Performance-Based Regulation (PBR) proceeding, the Commission has actively worked with Hawaiian Electric and stakeholders to eliminate unnecessary reports and streamline or modify others. The effort is ongoing and has revealed that it is often useful to have data over the course of many years to assess utility performance towards key objectives.

The Commission notes that, as written, this measure may result in increased administrative burden by requiring the Commission to annually reinstate reports that are

necessary on an ongoing basis for every regulated utility. For example, this would include reports that are critical for assessing the utility's ability to serve its duties, such as Annual Financial Reports, Adequacy of Supply reports, and active project reports, except for the few reports that are required by statute seen in Hawaii Revised Statute Chapters 269, 271, and 271G. Given the ongoing efforts to assess and streamline existing utility reporting requirements and the necessity of certain ongoing reports, should the Legislature wish to pass this measure, the Commission respectfully suggests a change in language to apply only to newly created reporting requirements.

SECTION 1. [ ]       "§269-       Reports to the public utilities commission; expiration. Any reporting requirement newly established by the public utilities commission through an order and is not provided for in this chapter or any other statute shall expire one year after the issuance of the order; provided that the public utilities commission may identify a longer or ongoing reporting requirement upon establishment or issue a new order allowing for the continuation of the reporting requirement upon its expiration; provided further that the ~~new~~ order shall provide justification for the necessity of the longer reporting period or for continuation of the reporting requirement."

The Commission is willing to work with the Committee and stakeholders to further develop this new section in meeting the Legislature's intent.

Thank you for the opportunity to testify on this measure.



**Hawaiian  
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE**

**H.B. 368**

**Relating to the Public Utilities Commission**

Tuesday, February 28, 2023

2:00 pm

State Capitol, Conference Room 329 & Videoconference

James Abraham  
Associate General Counsel, Legal Department  
Hawaiian Electric

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

My name is James Abraham and I am testifying on behalf of Hawaiian Electric **in support** of H.B. 368.

This bill will establish a sunset period of one year for reporting requirements established by order of the Public Utilities Commission (PUC). Under the bill, the PUC will be allowed to renew reporting requirements provided there is a justification for continuing them. At the conclusion of many PUC proceedings, the PUC may institute monthly, quarterly, or annual reporting requirements where continued oversight of utility projects is appropriate. However, sometimes these reporting requirements may remain years after the reported information is useful or necessary for the PUC's oversight. When reporting requirements exceed their usefulness, it creates needless burden on and increased costs for the reporting entities. This bill will help ensure that the only reporting requirements that continue for more than one year are those that are necessary and useful for the PUC. This will eliminate waste by lessening the administrative burden and costs borne by utilities with no corresponding benefit.

Accordingly, Hawaiian Electric supports H.B. 368. Thank you for this opportunity to testify.



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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

DATE: Tuesday, February 28, 2023

TIME: 2:00 PM

PLACE: VIA VIDEOCONFERENCE & Conference Room 329

HB 368 RELATING TO PUBLIC UTILITIES COMMISSION

**OPPOSE**

Aloha Chair Nakashima, Vice Chair Sayama, and Committee Members

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 52 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB368 states, "Any reporting requirement established by the public utilities commission through an order and is not provided for in this chapter or any other statute shall expire one year after the issuance of the order."

The public utilities commission would be forced to keep numerous dockets open just to file annual decisions requiring continuation of reporting requirements.

## A Sample of Required Reports

Docket	Order	Reports
2007-0008	Order No. 23912 (2007)	HECO`s Yearly Report on Renewable Portfolio Standard
2007-0416	Order No. 34884 (2017)	HECO`s Annual Report for Recovered Renewable Energy Infrastructure Program (REIP) costs for the Demand Response Management System
2008-0273	Order (2009)	HECO`s Annual Status Report re Feed-in Tariff (FIT) Proceeding
2011-0206	Order No. 30371 (2012)	HECO`s monthly report on: (1) system frequency control performance during month; (2) significant system events during month; and (3) curtailment of non-dispatchable renewable resources
2011-0206	Order 32053 (2014)	Renewable Standards Working Group (RSWG) Work Product: HECO`s interconnection requirements studies (IRS) Monthly Report
2014-0135	Order No. 32318 (2014)	Hawaii Green Infrastructure Authority`s Green Energy Market Securitization Program Quarterly Report
2014-0192	Order No. 32737 (2015)	HECO`s weekly interconnection queue
2014-0192	Order No. 32737 (2015)	HECO`s monthly report on key technical developments to enable DER [Distributed Energy Resources] market growth and discuss efforts to utilize advanced technologies and grid-supportive DER functions to allow further integration of DER systems
2020-0167	Order No. 34808 (2021)	MCO`s Waena Switchyard/Synchronous Condenser Project Decision and Compliance Filing Quarterly Report

Mahalo,  
Henry Curtis,  
Executive Director





Email: [communications@ulupono.com](mailto:communications@ulupono.com)

HOUSE COMMITTEE CONSUMER PROTECTION & COMMERCE  
Tuesday, February 28, 2023 — 2:00 p.m.

**Ulupono Initiative opposes HB 368, Relating to the Public Utilities Commission.**

Dear Chair Nakashima and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy and clean transportation choices, and better management of freshwater resources.

**Ulupono opposes HB 368**, which provides that reports required by the Public Utilities Commission (PUC) through an order and not required by statute expire one year after the issuance of the order and allows continuation of the reporting requirement if a new order is issued and justification for the continuance is provided.

We have seen and welcomed more regulatory innovation in Hawai'i over the last 10 years than in the previous 100 years. This is due to the State of Hawai'i's bold renewable energy goals, forward-thinking stakeholders, and a progressive Public Utilities Commission (PUC). For example, our local energy sector has had rates decoupled from the amount of energy the utility sells, seen a sharp increase in rooftop solar adoption, set and aggressively worked towards our 100% renewable portfolio standard goal, started building a smart grid, commenced several rounds of procurement of utility-scale renewable energy, developed a Community-Based Renewable Energy (CBRE) program, adopted nation-leading Performance Based Regulation (PBR) with several Performance Incentive Mechanisms (PIMs), and embarked on detailed, highly technical Integrated Grid Planning (IGP), amongst other beneficial innovations.

Most of these efforts require a variety of metrics and reports to track performance over the long term. A bill that would have reporting requirements expire each year would either wipe out the last decade of work by the PUC and stakeholders, or introduce significant inefficiencies by requiring the PUC to renew each of these many reports that are, in fact, necessary on an ongoing basis. Such a bill would place an enormous administrative burden on the PUC in the fulfillment of its important mission and unnecessarily impede momentum toward our state's worthy energy goals—ultimately hindering benefit to the people of Hawai'i.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata  
Director of Government Affairs

*Investing in a Sustainable Hawai'i*