
A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that despite its goal to
2 achieve one hundred per cent renewable energy by 2045, the State
3 continues to depend heavily upon imported petroleum for its
4 energy needs, using approximately the same amount of fossil fuel
5 for electricity generation in 2023 as 2010, falling short of its
6 ambitious renewable energy goals.

7 The legislature also finds that renewable energy can be an
8 economic driver of jobs, including short-term and long-term
9 positions, and an incentive for large-scale, sustainable, and
10 clean industries to consider relocation of, or commencement of
11 business operations in, the State. Presently, the State has the
12 highest cost of energy in the nation according to the May 2023
13 Energy Information Administration average residential sector
14 retail electricity price chart. Incentivizing diversification
15 of the State's economy through clean energy industries would
16 alleviate certain energy costs for Hawaii's people.



1 Additionally, the tragic events that occurred in the 2023
2 Lahaina wildfires is an example of how vulnerable communities
3 can be to natural and manmade disasters, including the resulting
4 lack of water, internet, and communications due to the reliance
5 on a centralized grid. The current and frequent rolling
6 blackouts occurring across the State leave communities exposed
7 to national and energy security risks. The lack of resilient,
8 reliable electricity also exposes the State's economic drivers
9 in key visitor, travel, and defense industries.

10 The centralized utility has been slow to issue requests for
11 proposals to increase the number of new renewable energy
12 opportunities, to adopt decentralized microgrids that can help
13 mitigate reliability issues and bring in competition and promote
14 jobs. Additionally, with the decarbonization and renewable
15 energy usage goals of the State set forth in Act 97, Session
16 Laws of Hawaii 2015, it is imperative that the State prioritize
17 clean energy resources to achieve its mandate. The legislature
18 also finds that renewable fuels and hydrogen produced by
19 renewable energy for transportation, aviation, and the gas
20 utility is increasingly necessary to transport the renewable



1 electricity to the production facility of the renewable fuels
2 and hydrogen on another tax map parcel.

3 The legislature further finds that the production of clean
4 electricity may be encouraged if independent generators of clean
5 electricity can engage in retail wheeling to keep one of the
6 highest costs of business at a reasonable rate. Retail wheeling
7 occurs when electric power is transmitted from one independent
8 generator of renewable energy to users of renewable energy over
9 the transmission lines of a third-party electric public utility.
10 Through retail wheeling, users of renewable energy, including
11 affordable housing developments, the State, and the counties,
12 could acquire clean electricity by purchasing it from a clean
13 electricity project developer, then transmitting the clean
14 electricity across utility lines owned and maintained by a
15 third-party electric public utility, while fairly compensating
16 the third-party utility for utilizing its existing
17 infrastructure. States across the nation have recognized this
18 fact and have accordingly authorized it.

19 Therefore, the purpose of this Act is to authorize
20 independent generators of renewable energy to wheel the



1 renewable electricity they produce under administrative rules
2 established by the public utilities commission.

3 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§269- Retail wheeling; renewable energy; rules. (a)
7 Independent renewable energy generators may engage in retail
8 wheeling the renewable electricity.

9 (b) No later than December 31, 2024, the public utilities
10 commission shall establish, by rule or order, policies and
11 procedures to implement retail wheeling, including any
12 appropriate rate to charge the renewable electricity project
13 developer, independent renewable energy generator, or user of
14 renewable energy for retail wheeling.

15 (c) The public utilities commission shall submit a report
16 of its findings and recommendations on retail wheeling to the
17 legislature no later than twenty days prior to the convening of
18 the regular session of 2026.

19 (d) The public utilities commission shall evaluate the
20 need to adopt customer protection measures.



1 (e) For the purposes of this section, "retail wheeling"
2 means the transmission of electric power from an independent
3 renewable energy generators' point of generation over
4 transmission lines, distribution lines, and other facilities of
5 a third-party electric public utility to the facilities of a
6 user of renewable energy."

7 SECTION 3. Section 269-1, Hawaii Revised Statutes, is
8 amended by amending the definition of "public utility" to read
9 as follows:

10 ""Public utility":

11 (1) Includes every person who may own, control, operate,
12 or manage as owner, lessee, trustee, receiver, or
13 otherwise, whether under a franchise, charter,
14 license, articles of association, or otherwise, any
15 plant or equipment, or any part thereof, directly or
16 indirectly for public use for the transportation of
17 passengers or freight; for the conveyance or
18 transmission of telecommunications messages; for the
19 furnishing of facilities for the transmission of
20 intelligence by electricity within the State or
21 between points within the State by land, water, or



1 air; for the production, conveyance, transmission,
2 delivery, or furnishing of light, power, heat, cold,
3 water, gas, or oil; for the storage or warehousing of
4 goods; or for the disposal of sewage; provided that
5 the term shall include:

6 (A) An owner or operator of a private sewer company
7 or sewer facility; and

8 (B) A telecommunications carrier or
9 telecommunications common carrier; and

10 (2) Shall not include:

11 (A) An owner or operator of an aerial transportation
12 enterprise;

13 (B) An owner or operator of a taxicab as defined in
14 this section;

15 (C) Common carriers that transport only freight on
16 the public highways, unless operating within
17 localities, along routes, or between points that
18 the public utilities commission finds to be
19 inadequately serviced without regulation under
20 this chapter;



- 1 (D) Persons engaged in the business of warehousing or
2 storage unless the commission finds that
3 regulation is necessary in the public interest;
- 4 (E) A carrier by water to the extent that the carrier
5 enters into private contracts for towage,
6 salvage, hauling, or carriage between points
7 within the State; provided that the towing,
8 salvage, hauling, or carriage is not pursuant to
9 either an established schedule or an undertaking
10 to perform carriage services on behalf of the
11 public generally;
- 12 (F) A carrier by water, substantially engaged in
13 interstate or foreign commerce, that transports
14 passengers on luxury cruises between points
15 within the State or on luxury round-trip cruises
16 returning to the point of departure;
- 17 (G) Any user, owner, or operator of the Hawaii
18 electric system as defined under section 269-141;
- 19 (H) A telecommunications provider only to the extent
20 determined by the public utilities commission
21 pursuant to section 269-16.9;



1 (I) Any person who controls, operates, or manages
2 plants or facilities developed pursuant to
3 chapter 167 for conveying, distributing, and
4 transmitting water for irrigation and other
5 purposes for public use and purpose;

6 (J) Any person who owns, controls, operates, or
7 manages plants or facilities for the reclamation
8 of wastewater; provided that:

9 (i) The services of the facility are provided
10 pursuant to a service contract between the
11 person and a state or county agency and at
12 least ten per cent of the wastewater
13 processed is used directly by the state or
14 county agency that entered into the service
15 contract;

16 (ii) The primary function of the facility is the
17 processing of secondary treated wastewater
18 that has been produced by a municipal
19 wastewater treatment facility owned by a
20 state or county agency;



- 1 (iii) The facility does not make sales of water to
2 residential customers;
- 3 (iv) The facility may distribute and sell
4 recycled or reclaimed water to entities not
5 covered by a state or county service
6 contract; provided that, in the absence of
7 regulatory oversight and direct competition,
8 the distribution and sale of recycled or
9 reclaimed water shall be voluntary and its
10 pricing fair and reasonable. For purposes
11 of this subparagraph, "recycled water" and
12 "reclaimed water" means treated wastewater
13 that by design is intended or used for a
14 beneficial purpose; and
- 15 (v) The facility is not engaged, either directly
16 or indirectly, in the processing of food
17 wastes;
- 18 (K) Any person who owns, controls, operates, or
19 manages any seawater air conditioning district
20 cooling project; provided that at least fifty per
21 cent of the energy required for the seawater air



1 conditioning district cooling system is provided
2 by a renewable energy resource, such as cold,
3 deep seawater;

4 (L) Any person who owns, controls, operates, or
5 manages plants or facilities primarily used to
6 charge or discharge a vehicle battery that
7 provides power for vehicle propulsion;

8 (M) Any person who:
9 (i) Owns, controls, operates, or manages a
10 renewable energy system that is located on a
11 customer's property; and

12 (ii) Provides, sells, or transmits the power
13 generated from that renewable energy system
14 to an electric utility or to the customer on
15 whose property the renewable energy system
16 is located; provided that, for purposes of
17 this subparagraph, a customer's property
18 shall include all contiguous property owned
19 or leased by the customer without regard to
20 interruptions in contiguity caused by
21 easements, public thoroughfares,



1 transportation rights-of-way, and utility
2 rights-of-way; and
3 (N) Any person who owns, controls, operates, or
4 manages a renewable energy system that is located
5 on [~~such~~] the person's property and provides,
6 sells, or transmits the power generated from that
7 renewable energy system to an electric utility or
8 to lessees or tenants on the person's property
9 where the renewable energy system is located;
10 provided that:
11 (i) An interconnection, as defined in section
12 269-141, is maintained with an electric
13 public utility to preserve the lessees' or
14 tenants' ability to be served by an electric
15 utility;
16 (ii) [~~Such~~] The person does not use an electric
17 public utility's transmission or
18 distribution lines to provide, sell, or
19 transmit electricity to lessees or tenants;
20 (iii) At the time that the lease agreement is
21 signed, the rate charged to the lessee or



1 tenant for the power generated by the
2 renewable energy system shall be no greater
3 than the effective rate charged per kilowatt
4 hour from the applicable electric utility
5 schedule filed with the public utilities
6 commission;

7 (iv) The rate schedule or formula shall be
8 established for the duration of the lease,
9 and the lease agreement entered into by the
10 lessee or tenant shall reflect such rate
11 schedule or formula;

12 (v) The lease agreement shall not abrogate any
13 terms or conditions of applicable tariffs
14 for termination of services for nonpayment
15 of electric utility services or rules
16 regarding health, safety, and welfare; and

17 (vi) The lease agreement shall disclose: (1) the
18 rate schedule or formula for the duration of
19 the lease agreement; (2) that, at the time
20 that the lease agreement is signed, the rate
21 charged to the lessee or tenant for the



1 power generated by the renewable energy
2 system shall be no greater than the
3 effective rate charged per kilowatt hour
4 from the applicable electric utility
5 schedule filed with the public utilities
6 commission; (3) that the lease agreement
7 shall not abrogate any terms or conditions
8 of applicable tariffs for termination of
9 services for nonpayment of electric utility
10 services or rules regarding health, safety,
11 and welfare; and (4) whether the lease is
12 contingent upon the purchase of electricity
13 from the renewable energy system; provided
14 further that any disputes concerning the
15 requirements of this provision shall be
16 resolved pursuant to the provisions of the
17 lease agreement or chapter 521, if
18 applicable [~~and~~
19 ~~(vii) Nothing in this section shall be construed~~
20 ~~to permit wheeling].~~



1 If the application of this chapter is ordered by the
2 commission in any case provided in paragraph (2) (C), (D), (H),
3 and (I), the business of any public utility that presents
4 evidence of bona fide operation on the date of the commencement
5 of the proceedings resulting in the order shall be presumed to
6 be necessary to the public convenience and necessity, but any
7 certificate issued under this proviso shall nevertheless be
8 subject to terms and conditions as the public utilities
9 commission may prescribe, as provided in sections 269-16.9 and
10 269-20."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

14

INTRODUCED BY: *Miss E. Lower*

JAN 19 2024



H.B. NO. 2078

Report Title:

PUC; Retail Wheeling; Renewable Energy; Clean Electricity

Description:

Authorizes independent generators of renewable energy to wheel the renewable electricity they produce to users of renewable energy under administrative rules established by the Public Utilities Commission.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

