
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that accelerating the
2 development of renewable energy to reduce greenhouse gases is a
3 high priority. The legislature has enacted numerous Acts to
4 achieve this objective, including:

5 (1) Act 97, Session Laws of Hawaii 2015, which established
6 a renewable energy portfolio standards' target of one
7 hundred per cent renewable electric energy by
8 December 31, 2045;

9 (2) Act 15, Session Laws of Hawaii 2018, which established
10 a statewide zero emissions clean economy target to
11 sequester throughout the State more atmospheric carbon
12 and greenhouse gases than emitted, as quickly as
13 practicable but no later than 2045; and

14 (3) Act 238, Session Laws of Hawaii 2022, which
15 established a statewide target that includes a
16 greenhouse gas emissions limit of at least fifty per



1 cent below 2005 greenhouse gas emission levels no
2 later than 2030.

3 The legislature further finds that the timely completion of
4 grid-connected renewable energy projects is also a high priority
5 as it will help the State achieve the targets and limits
6 established through prior legislation. On November 13, 2020,
7 the public utilities commission issued a letter to the parties
8 in docket numbers 2015-0389 (Community Based Renewable Energy),
9 2017-0352 (Hawaiian Electric Renewable Requests for Proposals),
10 and 2018-0165 (Integrated Grid Planning), stating that it "is
11 markedly concerned that Hawaiian Electric [Company]'s
12 interconnection processes and policies are increasing
13 development costs and extending renewable project timelines".

14 On December 23, 2020, under docket number 2018-0088
15 (Performance-Based Regulation), the public utilities commission
16 issued order number 37507, indicating, in part, that it was
17 concerned about interconnection delays and will implement a
18 performance incentive mechanism to encourage Hawaiian Electric
19 Company to accelerate the interconnection process. Order number
20 37507 also stated that "the scheduled retirement of the AES
21 Power Plant in 2022, as well as [Hawaiian Electric Company,



1 Inc.; Hawaii Electric Light Company, Inc.; and Maui Electric
2 Company, Limited's] proposal to delay interconnecting several
3 renewable energy and storage projects recently approved by the
4 commission, underscores the need for expeditiously securing
5 alternative sources of grid services to ensure that system needs
6 are met".

7 The legislature notes that during phase 1 and phase 2 of
8 the electric utility's procurement under docket no. 2017-0352,
9 projects have been delayed or terminated, due in part to costs
10 and delays of interconnection. On February 11, 2021, the public
11 utilities commission opened docket number 2021-0024 to review
12 Hawaiian Electric Company's interconnection process and
13 transition plans for retirement of fossil fuel plants.

14 In 2022, the public utilities commission testified that it
15 had set up a tracker accounts to quantify and monitor the cost
16 of project delays. As of the monthly update submitted by the
17 Hawaiian Electric Company on January 21, 2022, the tracked cost
18 totaled over \$10,000,000 across several projects. The public
19 utilities commission also testified that it issued a request for
20 information to solicit input from qualified entities to serve
21 under contract as a Hawaii electric reliability administrator.



1 On September 9, 2022, instead of procuring a Hawaii electric
2 reliability administrator, the public utilities commission
3 awarded a procurement contract that hired an independent
4 engineer to assist the commission in overseeing the technical
5 aspects of the upcoming phase 3 procurement processes, reviewing
6 interconnection requirements that had already been established
7 by the Hawaiian Electric Company and associated costs, resolving
8 technical disputes related to interconnection of resources,
9 assisting in the implementation of interconnection-related
10 performance incentive mechanisms, and serving a general advisory
11 role to the commission on issues related to Hawaiian Electric
12 Company's interconnection process. These duties only cover a
13 subset of the duties of a Hawaii electric reliability
14 administrator, pursuant to part IX of chapter 269, Hawaii
15 Revised Statutes, and therefore will not result in commission-
16 established reliability standards for interconnection and the
17 grid, an interconnection dispute resolution process, nor long-
18 term grid planning for the State.

19 In the latter half of 2022, the public utilities commission
20 approved Hawaiian Electric Company's recommendation to complete
21 the interconnection requirements study and total estimated



1 interconnection cost for each phase 3 procurement project
2 selected prior to the signing and filing of the power purchase
3 agreement with the public utilities commission for approval.

4 However, phase 3 procurement projects are required to
5 assume interconnection costs prior to the completion of the
6 interconnection requirements study and total estimated
7 interconnection cost. If these costs are higher than what the
8 project assumed before or after bid submission to the public
9 utilities commission, the project is not allowed to adjust its
10 bid price to reflect the higher-than-anticipated cost. Moreover,
11 under the commission-approved model power purchase agreement,
12 Hawaiian Electric Company, which performs the interconnection
13 construction, is further permitted to increase the project's
14 interconnection costs. Thus, the revised process approved by
15 the public utilities commission does not result in meaningful
16 reform to the interconnection issues impacting timely and cost-
17 effective renewable energy development, which affects the
18 ratepayer.

19 Also in the latter half of 2022, Hawaiian Electric Company
20 issued four separate requests to Hawaii island customers to
21 limit their use of electricity to prevent the possibility of



1 rolling blackouts due to factors including the unexpected loss
2 of several large generators, lower wind resources, and lower-
3 than-expected geothermal output. This further substantiates the
4 urgency to create and implement reliability standards through a
5 Hawaii electric reliability administrator.

6 The legislature also finds that the State does not regulate
7 interconnection costs, which results in the ratepayer bearing
8 the full financial burden of both interconnection costs and
9 utility network upgrades in the electricity rates. The Federal
10 Energy Regulatory Commission, an independent federal agency that
11 regulates the interstate transmission of natural gas, oil, and
12 electricity and natural gas and hydropower projects, has
13 developed a simple test for distinguishing interconnection
14 facilities from network upgrades. In its Order No. 2003, the
15 Federal Energy Regulatory Commission stated that,
16 "Interconnection Facilities are found between the
17 Interconnection Customer's Generating Facility and the
18 Transmission Provider's Transmission System [...]. Network
19 Upgrades include only facilities at or beyond the point where
20 the Interconnection Customer's Generating Facility interconnects
21 to the Transmission Provider's Transmission System." This



1 distinction clarifies and determines which party has ultimate
2 cost responsibility. Order No. 2003 also generally found that
3 "it is just and reasonable for the interconnection customer to
4 pay for Interconnection Facilities but not for Network
5 Upgrades."

6 Establishing grid reliability standards, regulating the
7 timely and transparent interconnection of utility-scale
8 renewable energy projects, and distinguishing the cost
9 responsibilities between interconnection facilities and utility
10 network upgrades will help to bring utility-scale renewable
11 energy projects online sooner; decrease electricity rates for
12 consumers; provide project developers with added certainty
13 regarding project timelines and transparent costs; encourage
14 lower bid prices; achieve the State's renewable portfolio
15 standard goals; establish long-term institutional knowledge
16 within the public utilities commission; reduce greenhouse gas
17 emissions; and mitigate the effects of climate change.

18 Accordingly, the purpose of this Act is to:

19 (1) Establish the Hawaii electricity reliability surcharge
20 special fund and subaccount;



- 1 (2) Require the public utilities commission to establish
2 reliability standards and interconnection requirements
3 for all electric utilities and all users, owners, or
4 operators of the Hawaii electric system and determine
5 the responsible party to bear any costs associated
6 with any reliability standards as interconnection
7 requirements;
- 8 (3) Require the public utilities commission to:
- 9 (A) Distinguish between interconnection facilities
10 and utility network upgrades;
- 11 (B) Ensure that the cost of interconnection
12 facilities shall be the responsibility of the
13 interconnection customer; and
- 14 (C) Ensure that the cost of utility network upgrades
15 at and beyond the point of interconnection to the
16 utility's transmission system shall be the sole
17 responsibility of the utility transmission
18 provider;
- 19 (4) Establish a timeline and requirements for
20 interconnection procedures to be established by the



1 public utilities commission for certain utility-scale
2 renewable energy projects;

3 (5) Make the public utilities commission's contracting for
4 the Hawaii electric reliability administrator
5 mandatory rather than discretionary; provided that the
6 Hawaii electricity reliability administrator surcharge
7 has been established;

8 (6) Beginning January 1, 2024, require the Hawaii
9 electricity reliability administrator surcharge to be
10 imposed on the bills of customers of investor-owned
11 electric utility companies to cover the complete cost
12 of the Hawaii electricity reliability administrator
13 and deposited into the Hawaii electricity reliability
14 surcharge special fund; and

15 (7) Require the public utilities commission to submit an
16 annual report and assessment of the Hawaii electric
17 reliability administrator to the legislature.

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



1 "§269- Hawaii electricity reliability surcharge special
2 fund; subaccount. (a) There is established a Hawaii
3 electricity reliability surcharge special fund into which shall
4 be deposited:

5 (1) The funds collected by the Hawaii electricity
6 reliability administrator surcharge pursuant to
7 section 269-149; and

8 (2) Appropriations made by the legislature for deposit
9 into the fund.

10 (b) The moneys collected in the Hawaii electricity
11 reliability surcharge special fund shall be expended by the
12 public utilities commission for any and all expenses related to
13 ensuring the reliable operation of the Hawaii electric system
14 and overseeing grid access on the Hawaii electric system.

15 (c) There is established the Hawaii electricity
16 reliability surcharge special fund subaccount into which shall
17 deposited surcharge transfers from investor-owned electric
18 utility companies. Subject to approval by the public utilities
19 commission, the Hawaii electricity reliability administrator may
20 draw on the subaccount pursuant to section 269-149."



1 SECTION 3. Section 269-142, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]§269-142[+] Reliability standards; interconnection
4 requirements; adoption and development; force and effect. (a)
5 The commission [~~may~~] shall adopt, by rule or order, reliability
6 standards and interconnection requirements. Reliability
7 standards and interconnection requirements adopted by the
8 commission shall apply to any electric utility and any user,
9 owner, or operator of the Hawaii electric system. The
10 commission shall not contract for the performance of the
11 functions under this subsection to any other entity as provided
12 under section 269-147.

13 (b) The commission [~~may~~] shall develop reliability
14 standards and interconnection requirements as it determines
15 necessary or upon recommendation from any entity, including an
16 entity contracted by the commission to serve as the Hawaii
17 electricity reliability administrator provided for under this
18 part, for the continuing reliable design and operation of the
19 Hawaii electric system. The commission shall determine the
20 responsible party to bear any costs associated with any
21 reliability standards or interconnection requirements. Any



1 reliability standard or interconnection requirement developed by
2 the commission shall be adopted by the commission in accordance
3 with subsection (a) in order to be effective. The commission
4 shall not contract for the performance of the functions under
5 this subsection to any other entity as provided under section
6 269-147.

7 (c) The commission shall:

8 (1) Distinguish between interconnection facilities and
9 utility network upgrades;

10 (2) Ensure that the cost of interconnection facilities
11 shall be the responsibility of the interconnection
12 customer; and

13 (3) Ensure that the cost of utility network upgrades at
14 and beyond the point of interconnection to the
15 utility's transmission system shall be the sole
16 responsibility of the utility transmission provider.

17 [~~e~~] (d) The commission shall have jurisdiction over
18 matters concerning interconnection requirements and
19 interconnections located in the State between electric
20 utilities, any user, owner, or operator of the Hawaii electric
21 system, or any other person, business, or entity connecting to



1 the Hawaii electric system or otherwise applying to connect
2 generation or equipment providing ancillary services to, or
3 operate generation and equipment providing ancillary services in
4 parallel with the Hawaii electric system under processes
5 established in accordance with section 269-145. Nothing in this
6 subsection is intended to give the commission general
7 supervision authority over any user, owner, or operator of the
8 Hawaii electric system or any other person, business, or entity
9 that is not a public utility as defined in section 269-1.

10 (e) For purposes of this section:

11 "Generating facility" means the specific device for which
12 the interconnection customer has requested interconnection.

13 "Interconnection customer" means the owner of the
14 generating facility that is interconnecting at the utility point
15 of interconnection at the transmission provider's transmission
16 system.

17 "Interconnection facilities" means facilities that are
18 found between the interconnection customer's generating facility
19 and the utility transmission provider's transmission system.

20 "Transmission provider" means the entity or entities with
21 which the generating facility is interconnecting.



1 "Utility network upgrades" means facilities at or beyond
2 the point where the interconnection customer's generating
3 facility interconnects to the utility transmission provider's
4 transmission system."

5 SECTION 4. Section 269-145, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§269-145[+] **Grid access; procedures for**
8 **interconnection; dispute resolution.** (a) Each user, owner, or
9 operator of the Hawaii electric system, or any other person,
10 business, or entity seeking to make an interconnection on the
11 Hawaii electric system shall do so in accordance with procedures
12 to be established by the commission by rule or order.

13 (b) The commission shall establish interconnection
14 procedures as follows:

15 (1) The commission shall include in any interconnection
16 procedures established pursuant to this section
17 requirements that the electric public utility:

18 (A) Complete the interconnection design;

19 (B) Reach agreement with the renewable energy project
20 developer;



- 1 (C) File a request with the commission for
2 interconnection or line extension approval, if
3 required;
- 4 (D) Meet the requirements under subparagraphs (A)
5 through (C) as soon as practicable;
- 6 (E) Meet timelines and deadlines as determined by the
7 commission; and
- 8 (F) Submit interim reports to the commission on the
9 status of the electric public utility's efforts
10 to comply with the requirements of this
11 subsection ninety days and one hundred eighty
12 days after the renewable energy project power
13 purchase agreement is filed with the commission
14 for review and approval;
- 15 (2) If the electric public utility is unable to comply
16 with the requirements of this subsection, the electric
17 public utility shall report, in writing, the reasons
18 for noncompliance to the commission within ten
19 calendar days after the failure to meet timelines and
20 deadlines established by the commission;



1 (3) If the electric public utility fails to meet the
2 requirements established by the commission pursuant to
3 this subsection, the electric public utility shall
4 forfeit and return all moneys or other financial
5 incentives that the electric public utility has
6 received as part of any performance incentive
7 mechanism program or similar incentive-based award
8 recognized by the commission in connection with the
9 renewable energy project; and

10 (4) The commission shall submit a report to the governor
11 and legislature regarding any failure to meet the
12 timing under this subsection by any electric public
13 utility within thirty days of the commission receiving
14 notice of this failure;

15 provided that this subsection shall only apply to utility-scale
16 renewable energy projects that are five megawatts in total
17 output capacity or larger, and to any community-based renewable
18 energy projects that the commission has determined to be
19 responsible for interconnection costs.

20 ~~[(b)]~~ (c) The commission shall have the authority to make
21 final determinations regarding any dispute between any user,



1 owner, or operator of the Hawaii electric system, or any other
2 person, business, or entity connecting to the Hawaii electric
3 system, concerning either an existing interconnection on the
4 Hawaii electric system or an interconnection to the Hawaii
5 electric system created under the processes established by the
6 commission under this section."

7 SECTION 5. Section 269-146, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The commission may require, by rule or order, that
10 ~~[all]~~ any utilities, persons, businesses, or entities connecting
11 to the Hawaii electric system, or any other user, owner, or
12 operator of any electric element that is a part of an
13 interconnection on the Hawaii electric system ~~[shall]~~ pay a
14 surcharge that shall be collected by Hawaii's electric
15 utilities. The commission shall not contract or otherwise
16 delegate the ability to create the Hawaii electricity
17 reliability surcharge under this section to any other entity.
18 This surcharge amount shall be known as the Hawaii electricity
19 reliability surcharge."

20 SECTION 6. Section 269-147, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) The commission [~~may~~] shall contract for the
2 performance of its functions under this part with a person,
3 business, or organization, except for a public utility as
4 defined under this chapter, that will serve as the Hawaii
5 electricity reliability administrator provided for under this
6 part; provided that the Hawaii electricity reliability
7 administrator surcharge has been established pursuant to section
8 269-146; provided further that the commission shall not contract
9 for the performance of its functions under sections 269-142(a)
10 and (b) and 269-146."

11 SECTION 7. Section 269-149, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§269-149~~ **Funding; reporting.** (a) The Hawaii
14 electricity reliability administrator shall use funds collected
15 through the Hawaii electricity reliability surcharge provided
16 for under section 269-146 to carry out its operations, including
17 administrative, technological, or other related requirements for
18 effectively ensuring the reliability of the Hawaii electric
19 system. Beginning January 1, 2024, a Hawaii electricity
20 reliability administrator surcharge shall be imposed on the
21 bills of customers of investor-owned electric utility companies



1 to cover the complete cost of the Hawaii electricity reliability
2 administrator and deposited according to section 269- .

3 (b) The Hawaii electricity reliability administrator shall
4 report to the commission each year on the date of agreement
5 under section 269-147 following the original contracting between
6 the Hawaii electricity reliability administrator and the
7 commission on the status of its operations, financial position,
8 and a projected operational budget for the fiscal year following
9 the date of the report.

10 (c) The Hawaii electricity reliability administrator shall
11 be subject to regulation by the commission under any provision
12 applicable to a public utility in sections 269-7, 269-8,
13 269-8.2, 269-8.5, 269-9, 269-10, 269-13, 269-15, 269-19.5, and
14 269-28. Notwithstanding any other provision of law to the
15 contrary, the Hawaii electricity reliability administrator shall
16 not be an electric public utility or an electric public utility
17 affiliate.

18 (d) Within thirty days of receipt of the Hawaii electric
19 reliability administrator's report submitted to the commission
20 pursuant to this section, the commission shall submit to the
21 legislature the report and the commission's assessment of the



1 status and progress of the Hawaii electric reliability
2 administrator in achieving and accomplishing the objectives of
3 this part."

4 SECTION 8. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2023-2024 to be
7 deposited into the Hawaii electricity reliability surcharge
8 special fund.

9 The sum appropriated shall be expended by the public
10 utilities commission for the purposes of this Act.

11 SECTION 9. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Public Utility Commission; Renewable Energy; Hawaii Electricity Reliability Surcharge Special Fund; Reliability Standards; Interconnection Requirements; Interconnection Facilities; Utility Network Upgrades; Hawaii Electricity Reliability Administrator; Appropriation

Description:

Establishes the Hawaii Electricity Reliability Surcharge Special Fund. Requires the Public Utilities Commission to establish reliability standards and interconnection requirements for all users, owners, or operators of the Hawaii electric system and determine the responsibility of costs associated with any reliability standards or inter-connection requirements. Requires the Public Utilities Commission to establish: (1) the distinction between interconnection facilities and utility network upgrades; (2) that the cost of interconnection facilities shall be the responsibility of the interconnection customer; and (3) that the cost of utility network upgrades shall be the sole responsibility of the transmission provider. Establishes a timeline and requirements for interconnection procedures to be established by the Public Utilities Commission for certain utility-scale renewable energy projects. Requires implementation of the Hawaii Electricity Reliability Administrator Law upon establishment of the Hawaii Electricity Reliability Administrator Surcharge. Beginning 1/1/2024, requires the surcharge to be imposed on certain customers to cover the costs of the Administrator to be deposited into the Hawaii Electricity Reliability Surcharge Special Fund Subaccount. Requires the Public Utilities Commission to submit a report and assessment of the Hawaii Electric Reliability Administrator to the Legislature. Appropriates funds. Effective 7/1/2050. (SD2)

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

