

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

House Committees on Finance

Monday, February 26, 2024

2:00 p.m.

State Capitol, Conference Room 308 and Videoconference

In Support

House Bill No. 2407, HD2, Relating to Wildfire Risk Mitigation

Chair Yamashita, Vice Chair Kitagawa, and Members of the House Committee on Finance:

The Office of the Governor supports H.B. No. 2407, HD2, Relating to Wildfire Risk Mitigation.

The Maui wildfire resulted in unbearable loss of lives, homes, infrastructure, and businesses. This tragic event is a wake-up call that due to climate changes, the risk of catastrophic wildfires, along with other natural disasters in Hawaii has increased.

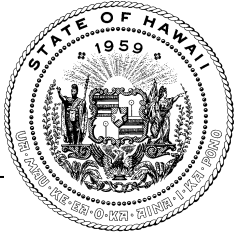
H.B. No. 2407, HD2 would create a process for electric utilities to develop and submit effective wildfire risk protection plans to the public utilities commission (PUC) for approval and would allow for the recovery of related costs and expenses through the securitization process, while also avoiding a disproportionate impact on a specific ratepayer or county.

We need to ensure wildfire mitigation and prevention policies and plans are adopted by the State, but we need to also find reasonable ways to finance these improvements and investments. Through the securitization model that is proposed in H.B. No. 2407, HD2, resources will be available to address wildfire risk mitigation in a manner that should have a minimal impact on utility customers' electricity bills.

The Governor is keenly aware of our state's high electrical rates and the impact that it has on all of our residents. But, the wildfires were a stark and harsh signal to our state that we need to do more to protect against disasters like wildfires. The Office of the Governor supports this bill to create a process for wildfire plan protection and mitigation that must be approved by the PUC. Once approved, the PUC would also then have the ability to review a request for securitization financing. Utility rate securitization transactions have an extensive track record of success. Bonds securitized by rates receive AAA credit ratings from credit rating agencies and thus provide a means of securing capital at a lower interest rate than those currently available to utilities, in particular utilities without an investment grade credit rating.

Testimony of Office of the Governor
H.B. No. 2407, HD2
February 26, 2024
Page 2

Thank you very much for the opportunity to provide testimony on this measure.



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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
HOUSE COMMITTEE ON FINANCE

Monday, February 26, 2024
2:00 PM
State Capitol, Conference Room 308 and Videoconference

In Support of
HB 2407, HD2

RELATING TO WILDFIRE RISK MITIGATION.

Chair Yamashita, Vice Chair Kitagawa, and members of the Committee, the Hawai'i State Energy Office (HSEO) supports HB 2407, HD2, that creates a process for electric utilities to develop and submit wildfire protection plans to the Public Utilities Commission (PUC) for approval and allow the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county.

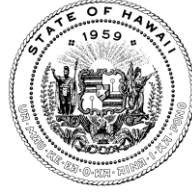
This measure appropriately presents an essential set of wildfire mitigation and prevention policies and plans along with a securitization model that is proven to be a highly effective and efficient way to finance investments to make such improvements. With the oversight of the PUC, rate reduction bonds, similar to those used in the Green Energy Market Securitization (GEMS) program, would be authorized only when the Commission had ensured the financing order was aligned with an effective process for wildfire plan protection and mitigation. The approach presented in HB 2407, HD2, should result in greater protections to the public and critical energy infrastructure while having minimal impact on utility customers' electricity bills.

The need for this measure is urgent. HSEO conducted a comprehensive energy system risk assessment for O'ahu on the interdependencies within the energy sector

supply chain and the interdependencies of the energy sector with FEMA Community Lifeline services that are essential to the response and recovery from all hazard events. The results were clear: wildfire is one of the top two most significant threats to our critical energy infrastructure and the emergency response sectors that depend on it. At the same time, power infrastructure in red flag conditions can also be the cause of wildfire. This is why proactive action is imperative. To strengthen the state's defenses against wildfire, developing robust wildfire protection plans statewide is critical.

Your adoption of HB 2407, HD2, can better safeguard our communities, reduce the likelihood of another Maui-like catastrophe, and ensure a reliable and resilient energy future.

Thank you for the opportunity to testify.



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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Monday, February 26, 2024
2:00 p.m.
Conference Room 308**

**On the following measure:
H.B. 2407, H.D. 2, RELATING TO WILDFIRE RISK MITIGATION**

Chair Yamashita and Members of the Committee:

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

The purpose of this bill is to create a process for electric utilities to develop and submit wildfire protection plans to the Public Utilities Commission (Commission) for approval and allow for the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county.

The tragedy and devastation of the wildfires that arose on Maui during the August 8, 2023 windstorm must be prevented from reoccurring. The Department supports this bill, which requires that electric utilities implement wildfire protection plans. The Department appreciates that the bill focuses on creating pathways to prevent wildfires and protects at-risk infrastructure while also seeking to minimize the financial impact on ratepayers.

The Department strongly supports encouraging electric utilities to proactively manage their wildfire risk by requiring that they develop and regularly update their wildfire protection plans. The Department appreciates that the bill incentivizes electric utilities to continuously act prudently to mitigate their wildfire risk by not including language in the bill that establishes an assumption of prudence simply because the electric utility has an approved wildfire risk protection plan in place. The Department strongly supports the consideration for equity that is included in the bill by requiring that the surcharge for the wildfire protection fee be non-bypassable. The Department also appreciates that the bill requires that the impacts of financing the wildfire protection costs be minimized.

However, the Department is still concerned with the language of the decision-making procedures in the proposed § 269-B and § 269-C for best practices and wildfire protection plans, which seem somewhat unclear and ambiguous. The Department respectfully recommends that the amendments provided below be adopted and that the proposed changes more clearly articulate that the Commission's process to review and make decisions on whether to approve wildfire protection plans will include: (1) public workshops to obtain input on best practices in developing wildfire protection plans, and (2) a docketed proceeding for decision-making. Requiring decision-making during a docketed as opposed to a non-docketed proceeding provides the opportunity for the public to participate and assist the Commission in the decision-making phase. It also ensures that the general powers and duties conferred to the Consumer Advocate under Hawaii Revised Statutes § 269-51 and § 269-54 are maintained. Furthermore, the Department also includes recommended amendments in the proposed § 269-A, § 269-E, and § 269-G addressing the recent inclusion of securitization terms and provisions from the Office of the Attorney General. Therefore, the Department recommends the following amendments to the proposed statutory addition to HRS Chapter 269, in Section 2 of the bill, to address its concerns for ratepayer protections:

"PART . WILDFIRE PROTECTION AND MITIGATION

§269-A Definitions. As used in this part:

* * * * *

"Financing entity" means ~~the electric utility; an affiliate of the electric utility;~~ a special purpose vehicle, ~~regardless of whether the special purpose vehicle is~~ not affiliated with an electric utility; or a governmental financing entity that is authorized by the commission to issue bonds or acquire wildfire protection property, or both, pursuant to a financing order.

* * * * *

§269-B Electric utility workshops. The public utilities commission may periodically convene workshops to help electric utilities develop and share information for the identification, adoption, and implementation of best practices regarding wildfires, including but not limited to risk-based wildfire protection and risk-based wildfire mitigation procedures and standards. The best practices discussed in these workshops may be incorporated into the proposed wildfire protection plans and updates submitted for public utilities commission approval pursuant to section 269-C.

§269-C Wildfire protection plans. (a) Each electric utility shall have and operate in compliance with a risk-based wildfire protection plan, which shall be submitted to ~~filed with and evaluated by~~ the public utilities commission for approval. The risk-based wildfire protection plan shall be based on reasonable and prudent practices, which may be ~~identified through workshops and regulatory proceedings conducted by the public utilities commission pursuant to section 269-B,~~

~~and determined by~~ public utilities commission standards adopted by decision or rule. The electric utility shall design the risk-based wildfire protection plan to protect public safety, reduce risk to utility customers, and promote resilience of the Hawaii electric system to wildfire damage.

* * * * *

(b) Each electric utility shall regularly submit updates to its risk-based wildfire protection plan for approval on a schedule determined by the public utilities commission.

* * * * *

(d) The public utilities commission, ~~in consultation with the department of land and natural resources and local emergency services agencies,~~ shall evaluate each electric utility's risk-based wildfire protection plan and plan updates ~~through a public process~~ according to the public utilities commission's Rules of Practice and Procedure in Hawaii Administrative Rules Chapter 16-601. The public utilities commission shall allow the department of land and natural resources and local emergency services agencies to participate in proceedings evaluating risk-based wildfire protection plans.

(e) No more than ninety days after the last party filing, and no more than a total of one hundred eighty days after the initial application for approval of the submitted wildfire protection plan or update filing in the ~~docketed proceeding or non-docketed case related to the public utilities commission's evaluation of a risk-based wildfire protection plan or plan update from an~~

~~electric utility,~~ the public utilities commission shall approve or approve with conditions or reject the plan or update ~~if~~ based on whether the public utilities commission finds that the plan or update is based on reasonable and prudent practices and designed to meet all applicable rules and standards adopted by the public utilities commission. The public utilities commission may, in approving the plan or update with conditions, direct the electric utility to make modifications to the plan or updates that the public utilities commission believes represent a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk based on the evidentiary record in the proceeding information provided by the electric utility and based on best practices. The public utilities commission shall issue a decision explaining its determinations and including findings of fact and conclusions of law in accord with Hawaii Revised Statutes Chapter 91 ~~any such directed modifications at the time it approves the plan.~~

(f) The electric utility shall track the costs that it actually incurs to develop, implement, and administer the risk-based wildfire protection plan. In the electric utility's risk-based wildfire protection plan update, the electric utility shall report on the costs as actually incurred for the most recent past period for which the information is available.

If the actual costs are less than the amounts that the commission determined were reasonable in its decision under subsection (e), the commission shall

direct the electric utility to refund or credit the costs to ratepayers.

If the actual costs are equal to or greater than the amounts that the commission determined were reasonable in its decision under subsection (e), the commission shall not direct the electric utility to refund to ratepayers the amount the commission previously determined was reasonable but may disallow the recovery from ratepayers of any additional costs the commission finds unreasonable. ~~For purposes of evaluating additional costs, the following shall apply:~~

~~(1) Actual costs that are no more than fifteen per cent greater than the costs the commission previously determined were reasonable shall be presumed prudent and authorized for recovery from ratepayers absent proof by clear and convincing evidence that the costs were unreasonable; and~~

~~(2) The electric utility shall have the burden of proving the reasonableness of actual costs that are more than fifteen per cent greater than the costs the commission previously determined were reasonable.~~

* * * * *

§269-E Applications to issue bonds and authorize wildfire protection fees. (a) An electric utility may apply to the commission for one or more financing orders to issue bonds to recover any wildfire protection costs, each of which authorizes the following:

(1) The imposition, charging, and collection of a wildfire protection fee, to become effective upon the

issuance of the bonds, and an adjustment of any such wildfire protection fee in accordance with a true-up adjustment mechanism under this part in amounts sufficient to pay the principal of and interest on bonds and all related financing costs on a timely basis;

(2) The creation of wildfire protection property under the financing order; and

(3) The imposition, charging, and collection of fixed recovery tax amounts to recover any portion of the public utility's federal and state taxes associated with those wildfire protection fees and not financed from the proceeds of bonds.

(b) The application shall include all of the following:

(1) The principal amount of the bonds proposed to be issued;

(2) An estimate of the date each series of bonds is expected to be issued;

(3) The expected term, which shall include a scheduled final payment date not to exceed thirty years, and a legal final maturity that may be longer, subject to rating agency and market conditions, during which the wildfire protection fee associated with the issuance of each series of bonds is expected to be imposed and collected;

(4) An estimate of the financing costs associated with the issuance of each series of bonds;

(5) An estimate of the amount of the wildfire protection fee revenues necessary to pay principal and interest on the bonds and related financing costs as set forth in the application and the calculation for that estimate (of the related financing costs, in no case should those cost be allowed to be recovered from ratepayers);

(6) A proposed methodology for allocating the wildfire protection fee among customer classes;

(7) A description of the true-up adjustment for the adjustment of the wildfire protection fee to correct for any overcollection or undercollection of the wildfire protection fee, and to otherwise ensure the timely payment of principal and interest on the bonds and related financing costs; and

(8) Any other information required by the commission.

(c) The commission shall issue an approval or denial of any application for a financing order filed pursuant to this section within ninety days of the last filing in the applicable docket.

(d) In exercising its duties under this section, the commission shall consider:

(1) Whether the wildfire protection costs to be financed by any bonds to be issued are just and reasonable;

(2) Whether the recovery of such costs is consistent with the public interest;

(3) Whether the terms and conditions of any bonds to be issued, including without limitation interest rates, rating, amortization redemption, and maturity, and the imposition and collection of fixed recovery charges as set forth in an application, are just and reasonable;

(4) Whether the immediate ratepayer bill impact of any financing order is minimized to the furthest extent practicable; and

(5) Whether approval of any bonds lowers the public utility's overall enterprise risk, and so its return on equity should be lowered accordingly; and

(6) Any other factors that the commission deems reasonable and in the public interest.

* * * * *

§269-G Security interests in wildfire protection property; financing statements.

* * * * *

(e) If default occurs under the security agreement covering the wildfire protection property, the pledgees of the wildfire protection property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default under chapter 490, article 9, and shall be entitled to foreclose or otherwise enforce their security interest in the wildfire protection property, subject to the rights of any third parties holding prior security interests in the wildfire protection property perfected in the manner provided in this section. In addition, the commission may require in the financing order creating the wildfire protection property that, in the event of default by the electrical corporation in payment of wildfire protection property revenues, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under section 269-H of the wildfire protection property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and

payment to the pledgees or transferees of wildfire protection property revenues. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the wildfire protection property. Any surplus in excess of:

(1) Amounts necessary to pay principal, premiums, if any, interest, costs, and arrearages on the bonds, and associated financing costs arising under the security agreement; or

(2) In the event the wildfire protection property has been assigned to an assignee in connection with the exercise of remedies upon a default, an amount sufficient to repay the principal amount of, and interest that would have accrued on, the bonds had they remained outstanding,

shall be remitted to ~~the debtor or to the pledgor or transferor~~ ratepayers."

The Department also emphasize that it is important to develop plans and take actions to prevent wildfires together with mitigating the risks from other hazards like high winds and flooding.

Thank you for the opportunity to testify on this administration bill.

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

TO THE
HOUSE COMMITTEE ON
FINANCE

February 26, 2024
2:00 p.m.

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

MEASURE: H.B. No. 2407 HD2

TITLE: RELATING TO WILDFIRE RISK MITIGATION.

DESCRIPTION: Creates a process for electric utilities to develop and submit wildfire protection plans to the Public Utilities Commission for approval and allow the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county. Effective 7/1/3000. (HD2)

POSITION:

The Public Utilities Commission (“Commission”) supports this measure and offers the following comments for consideration.

COMMENTS:

The Commission supports the intent of this measure to create a process for electric utilities to develop and submit wildfire protection plans to the Commission and allow the recovery of related costs and expenses through securitization while minimizing impacts on specific ratepayers or counties. The Commission understands the importance of reducing the likelihood and impact of wildfires across the State and is committed to supporting such efforts.

On February 15, the Commission testified in support of the HD1 of this measure before the Joint Committee on Consumer Protection & Commerce and Judiciary & Hawaiian Affairs. As amendments to HD1 reflected in HD2 of this measure, the Joint Committee adopted language proposed by the Department of the Attorney General that refines the securitization process, places additional safeguards for ratepayers, and prioritizes the public interest. The Joint Committee did not adopt the Commission’s recommended

amendments to (1) modify the definition of wildfire protection costs to include only costs associated with catastrophic wildfires that the commission finds were prudently incurred and (2) revise the Commission's review time to 90 days after the last party filing in the wildfire protection plan or plan update docketed proceeding. Regarding the latter, the Commission understands leaving in the 180 day timeframe gives everyone a timeframe to work with and only requiring a 90 day timeframe, as recommended by the Commission, has been debated in previous hearings on SB2091 and companion SB3096. Thus the Commission is amenable to dropping this recommendation, agrees with the Joint Committee's adopted amendments reflected in HD2, and stands by its prior recommendation to amend the definition of wildfire protection costs as follows:

§ 269-A – definition of "Wildfire protection costs" (Page 9 Lines 3 – 20)

"Wildfire protection costs" means any capital costs and operation and maintenance expenses related to the development, implementation, and administration of a wildfire protection plan prepared pursuant to section 269-C(a). "Wildfire protection costs" does not include any penalties levied against an electric utility pursuant to section 269-D. "Wildfire protection costs" may also include any of the following:

(1) Catastrophic wildfire costs or expenses authorized by the commission in a financing order for recovery that the commission has determined were prudently incurred;

(2) Federal and state taxes associated with recovery of the amounts pursuant to paragraph (1);

(3) Financing costs; and

(4) Professional fees, consultant fees, redemption premiums, tender premiums, and other costs incurred by the electric utility in using proceeds of bonds to acquire outstanding securities of the electric utility, as authorized by the commission in a financing order.

Further, the Commission observes that, in contrast to companion measure SB3096 SD1, the definition of "Wildfire protection costs" in HD2 was revised to include professional fees

and other types of costs from issuance and administration of bonds. According to Hawaiian Electric's testimony on HD1, this is a necessary provision, consistent with market expectations, that ensures that all costs associated with issuing and managing the bond are paid as part of bond charges. It appears this amendment has also been endorsed by the Attorney General. While the Commission does not disagree with this amendment, it did state in its February 6 testimony on HB2407 that costs associated with professional fees, consultant fees, and other costs that a utility has paid or has a legal obligation to pay could be very high. It is possible, pending the results of external expert investigations, that these costs are prudently incurred in service of maintaining electric system reliability and the Commission may decide that these costs, in full or in part, should be recoverable via securitization from ratepayers. In any case, it is critical to include provisions that establish thresholds for recoverable costs that the Commission finds are just and reasonable, in the public interest, and minimize ratepayer impacts. It is essential that the Commission retain the ability to assess the impact of different cost categories on ratepayers and utilities to determine a path forward that best serves the public interest, particularly as it relates to meeting statutory requirements and maintaining reliable and affordable electric service.

Relatedly, the Commission also stated in its February 6 testimony on HB2407 that a 15% upward variance from costs that the Commission determines to be reasonable is appropriate for recovery, and recommended the measure be amended to include this language. While the language was not adopted in HD1, the Commission observes it is now reflected in §269-C(f)(1) and (2) of HD2.

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KENNETH S. HARA
DIRECTOR OF EMERGENCY
MANAGEMENT

JAMES DS. BARROS
ADMINISTRATOR OF
EMERGENCY MANAGEMENT

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STATE OF HAWAI'I
DEPARTMENT OF DEFENSE
HAWAI'I EMERGENCY MANAGEMENT AGENCY

TESTIMONY ON HOUSE BILL 2407 HD2,
RELATING TO EMERGENCY MANAGEMENT

BEFORE THE HOUSE COMMITTEES ON
FINANCE

BY

JAMES DS. BARROS
ADMINISTRATOR
HAWAI'I EMERGENCY MANAGEMENT AGENCY

FEBRUARY 26, 2024

Aloha Chair Yamashita, Vice-Chair Kitagawa, and Members of the Committee:

Thank you for the opportunity to submit testimony to **SUPPORT** HB 2407 HD2.

The Hawai'i Emergency Management Agency is expressing its support for House Bill 2407 HD2.

Among the many lessons learned from the August wildfires on Maui has been that catastrophic wildfire can strike without notice and have devastating affects to any community in Hawai'i. Enhanced emergency planning plays an important role at the Hawai'i Emergency Management Agency (HI-EMA).

HI-EMA **SUPPORTS HB 2407 HD2** because it helps agencies, including the Public Utility Commission (PUC) and Department of Land and Natural Resources (DLNR) as well as the state's electric utilities identify, develop, implement, and administer protection plans with public input and understanding. HI-EMA supports the purpose of this Bill is to create a process whereby electric utilities develop and submit effective wildfire risk protection plans to the PUC for approval; the PUC will then evaluate those plans and either approve them or do so with modifications.

HI-EMA also points out that PUC's approval of a risk-based wildfire protection plan does not by itself, establish a defense to any enforcement action for violation of a PUC decision, order, or

rule, or relieve an electric utility from proactively managing wildfire risk, including by monitoring emerging practices and technologies. Electric utilities are expected to continuously improve and take reasonable actions outside of approved plans to mitigate wildfire risk.

Given the amendments that have been made, HI-EMA fully endorses House Bill 2407 HD2 and strongly urges its passage in committee to facilitate the ongoing discussion.

Thank you for the opportunity to provide testimony **SUPPORTING** House Bill 2407 HD2.

James Barros: james.barros@hawaii.gov; 808-733-4300



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EMPLOYEES' RETIREMENT SYSTEM
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FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2407, H.D. 2

**February 26, 2024
2:00 P.M.
Room 308 and Videoconference**

RELATING TO WILDFIRE RISK MITIGATION.

The Department of Budget and Finance (B&F) offers the following comments on House Bill (H.B.) No. 2407, H.D. 2 which creates a process whereby electric utilities develop and submit effective wildfire risk protection plans to the Public Utilities Commission for approval and allow the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county. Included in H.B. No. 2407, H.D. 2 is 1) the ability for an electric utility to apply to the public utilities commission for one or more financing orders to issue bonds; and 2) authorizes the issuance of Special Purpose Revenue Bonds (SPRB) for wildfire risk mitigation purposes.

B&F is working with the Department of the Attorney General (Department) and defers to the Department on comments to help clarify provisions of this bill.

Thank you for your consideration of our comments.

HB-2407-HD-2

Submitted on: 2/25/2024 3:34:24 PM

Testimony for FIN on 2/26/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shane Sinenci	Maui County Councilmember	Support	Written Testimony Only

Comments:

Speak in support.



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COMMITTEE ON FINANCE
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair

DATE: Monday, February 26, 2024
TIME: 2:00 p.m.
PLACE: Conference Room 308

RE: HB2407 HD2 To Wildfire Risk Mitigation **SUPPORT ONLY IF WITH AMENDMENTS**

Aloha Chairs Ichiyama and Lowen, Vice Chairs Poepoe and Cochran, and Members of the Committees

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 54 years. Life of the Land's 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.

The bill as written is mushy regarding community input. The Public Utilities Commission MAY hold public workshops. The utility MAY engage with the community. The Public Utilities Commission CAN open a non-docket case where intervention is forbidden. The Public Utilities Commission and DLNR can do any kind of public policy that checks off the box: we have consulted with the public.

Life of the Land has been in more than 60 Hawai'i Public Utilities Commission contested case proceedings over the past half century, been a party in several transmission line proceedings, served on the PUC's Reliability Standards Working Group, serves on HECO's Resilience Working Group, delved heavily into fire risks, mitigation, and adaptation, and reviewed and filed with the PUC the 2023 wildfire management plans filed by California utilities Pacific Gas and Electric Company (PG&E), Southern California Edison, and Pacific Corporation.

De-Energization / Public Safety Power Shutoff

There have been several Red Flag days issued by the National Weather Service since the Maui fires.

De-energization can decrease fire risk but significantly makes life more difficult for vulnerable communities.

The California Public Utilities Commission has a web page devoted to Public Safety Power Shutoff (PSPS), the California phrase for de-energization.¹

“With the continuing threat of wildfire, the electric investor-owned utilities (IOUs) **may proactively cut power to electrical lines as a measure of last resort** if the utility reasonably believes that there is an imminent and significant risk that strong winds may topple power lines or cause major vegetation-related issues leading to increased risk of wildfires. This effort is called a Public Safety Power Shutoff (PSPS). While PSPS events may reduce the risk of utility-associated wildfires, PSPS events can leave communities and essential facilities without power, which brings its own risks and hardships, especially for vulnerable communities and individuals.

¹ <https://www.cpuc.ca.gov/psps/>

A few amendments to the bill are needed.

§269-C Wildfire protection plans... Each electric utility's plan shall, at a minimum: (4) After seeking information from state and local entities, **and stakeholders**, identify a protocol for the deenergizing of power lines and adjusting of power system operations to mitigate wildfires, promote the safety of the public and first responders, and preserve health and communication infrastructure;

The initial plan may take longer than updating the plan.

The non-docket concept must be removed. In essence it states that no concern stakeholder should be allowed to formally intervene in a utility wildfire management plan and no stakeholder should have a right to appeal a bad PUC regulatory decision regarding wildfires.

Considering that state law mandates that the PUC open a fire investigation, and they have not done so, the law should not be reinforcing the idea that the PUC can issue a bad decision without review.

§269-C Wildfire protection plans... (e) **The initial plan should be a priority proceeding.** No more than ninety days after the last party filing, and no more than a total of one hundred eighty days after the initial filing in the docket ~~or non-docketed case~~ related to the public utilities commission's evaluation of a risk-based wildfire protection plan ~~or plan~~ update from an electric utility, the public utilities commission shall approve or approve with conditions the plan or update if the public utilities commission finds that the plan or update is based on reasonable and prudent practices and designed to meet all applicable rules and standards adopted by the public utilities commission.

Mahalo

Henry Curtis
Executive Director



Email: communications@ulupono.com

HOUSE COMMITTEE ON FINANCE
Monday, February 26, 2024 — 2:00 p.m.

Ulupono Initiative supports the intent of HB 2407 HD2, Relating to Wildfire Risk Mitigation.

Dear Chair Yamashita 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, clean transportation choices, and better management of freshwater resources.

Ulupono supports the intent of HB 2407 HD2, which creates a process for electric utilities to develop and submit wildfire protection plans to the Public Utilities Commission (PUC) for approval and allow the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county.

Hawai'i's unique communities and ecosystems are increasingly threatened by the devastating impacts of wildfires. In recent years, we have witnessed a rise in the frequency and intensity of wildfires, exacerbated by climate change, land and water management practices, and urban encroachment into fire-prone areas. The culmination of these forces resulted in the devastating and heartbreaking destruction seen on Maui last year.

Ulupono supports this bill's requirement that the utility wildfire protection planning process be one that is open to community and stakeholder engagement. Ulupono considers community engagement a crucial component of the decision-making process, particularly when it comes to investments that support community health and safety. To further enhance the decision-making process, Ulupono recommends that greater visibility and optionality be presented by developing a set of investment and price-based scenarios for the PUC to decide upon. Ulupono recommends the bill require the utility, when developing its wildfire protection plan, to develop a series of sensitivities at a low, base, and high set of investment and cost scenarios. Providing pricing scenarios would enable deeper discussion and improve decision-making discussions between the regulator, consumer advocate, stakeholders, community, and utilities.

Investing in a Sustainable Hawai'i



Additionally, Ulupono applauds the Legislature's efforts to utilize unique methods to finance much-needed investments that will mitigate customer impacts to the extent possible.

Undisputed are the importance of preparing for increased risks from wildfires and ensuring that loss and damage caused by wildfires are addressed. Developing utility wildfire protection plans is a sound policy to address future wildfire risks across our state. We support the PUC's review and approval of said plans as it creates a transparent public process.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
FINANCE**

**HB 2407, HD2
Relating to Wildfire Risk Mitigation**

Monday, February 26, 2024
2:00 PM
State Capitol, Conference Room 308

Jimmy D. Alberts
Senior Vice President & Chief Operations Officer
Hawaiian Electric

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee,

My name is Jimmy D. Alberts, Senior Vice President & Chief Operations Officer for Hawaiian Electric and I am testifying in **support and requesting amendments to HB2407, HD2, Relating to Wildfire Risk Mitigation** and appreciate that this bill is a part of the Governor's package.

Our proposed amendments include changes to the wildfire mitigation plan only as we continue to work on amendments to the securitization section of the bill. At this time we would like to support the bill and ask that it be moved forward as we work with the Attorney General's office to finalize the language to the securitization sections of the bill. Hawaiian Electric supports the objectives of HB 2407, HD2, Relating to Wildfire Risk Mitigation but would like to propose amendments that will ensure that the mitigation plan provisions give utilities the tools and resources that are necessary to make our grids safe and resilient. We agree that utilities should develop and implement plans to mitigate wildfire risks with regulatory oversight and cost recovery, and that the Public

Utilities Commission (“PUC” or “Commission) is best positioned to decide what details should and shouldn’t be included in a given plan.

We also agree that allowing the Commission to authorize the issuance of bonds securitized by rates is the most efficient, least-cost way to finance expenses associated with catastrophic wildfires.

At this time, we are requesting your consideration of three sets of amendments to the wildfire mitigation plan sections of the bill that we believe will better protect against the risk of another catastrophic wildfire and minimize the burden on ratepayers.

First, our amendments clarify that the Commission, in its decision on the wildfire mitigation plan, would determine the reasonable costs to develop, implement, and administer the plan. That is implied by section 269-C(f) in the current HD2 draft, which authorizes recovery of actual costs if they are within the amount the PUC determined in advance would be reasonable.

Second, our amendments strike the penalties section (See page 22) of the bill as the Commission already has existing discretion to decide whether and at what level to impose a penalty. For your reference, Hawaii Revised Statutes, Section 269-28 provides how the Commission can administer penalties on a utility. The amendment also would avoid a scenario in which the Commission feels it must impose penalties even for minor infractions.

Third, our amendments seek to protect the jurisdiction of the Commission by adding limitations on the ability of private plaintiffs to sue electric utilities or the Commission based on alleged inadequacies in plans. These provisions do not provide blanket immunity to electric utilities. Instead, these provisions narrowly bar arguments that would ask judges and juries to contradict the Commission’s express judgments. As

part of approving a plan, the Commission must decide *both* what measures are necessary for safety *and* what measures would be too costly to be reasonable. For example, the Commission might decide that a power shutoff in high wind conditions is needed to protect public safety. If a plaintiff could sue the utility for damages resulting from the power outage, the Commission's decision would be undermined. On the other hand, if a plan requires a utility to inspect certain poles every year, and the utility fails to do so, a plaintiff would not be barred from alleging the utility was negligent.

Hawaiian Electric supports HB 2407, HD2 with amendments and requests the Committee's favorable consideration, while recognizing that we continue to work with the Attorney General's office on the amendments to the securitization section of the bill.

Proposed Amendments to HB 2407, HD2

§269-C Wildfire protection plans. (a) Each electric utility shall have and operate in compliance with a risk-based wildfire protection plan, which shall be submitted to the public utilities commission for approval. The risk-based wildfire protection plan shall be based on reasonable and prudent practices, which may be determined by public utilities commission standards adopted by decision or rule. The electric utility shall design the risk-based wildfire protection plan to protect public safety, reduce risk to utility customers, and promote resilience of the Hawaii electric system to wildfire damage. Each electric utility's plan shall, at a minimum:

- (1) Account for the duties of persons responsible for executing the plan;
- (2) Describe the objectives of the plan;
- (3) Identify areas that are subject to a heightened risk of wildfire and are:
 - (A) Within the right of way or legal control or ownership of the electric utility; and
 - (B) Outside the right of way or legal control or ownership of the electric utility but within a reasonable distance, as determined by the public utilities commission, of the electric utility's generation or transmission assets;
- (4) Identify a means for mitigating wildfire risk that reflects a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk;
- (5) Identify preventive actions and programs that the electric utility shall carry out to minimize the risk of utility facilities causing wildfire;

Proposed Amendments to HB 2407, HD2

(6) Identify the metrics the electric utility plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics;

(7) Describe how the application of previously identified metrics to previous plan performances has informed the plan;

(8) After seeking information from state and local entities, identify a protocol for the deenergizing of power lines and adjusting of power system operations to mitigate wildfires, promote the safety of the public and first responders, and preserve health and communication infrastructure;

(9) Describe appropriate and feasible procedures for notifying a customer who may be affected by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, operators of wastewater and water delivery infrastructure, and operators of telecommunications infrastructure;

(10) Describe the procedures, standards, and time frames that the electric utility shall use to inspect utility infrastructure in areas that the electric utility identifies under paragraph (1), including whether those procedures, standards, and time frames are already set forth in the electric utility's existing plans or protocols and in coordination with any relevant entities;

(11) Describe the procedures, standards, and time frames that the electric utility will use to carry out vegetation management in areas that the electric utility identifies under paragraph (1), including whether those procedures, standards, and time frames are already set forth in the electric utility's existing plans or protocols and in coordination with any relevant entities;

(12) Include a list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electric utility's service territory. The list shall include but not be limited to the following:

- (A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electric utility's equipment and facilities; and
- (B) Particular risks and risk drivers associated with topographic and climatological risk factors

Proposed Amendments to HB 2407, HD2

throughout the different parts of the electric utility's service territory;

(13) Describe how the plan accounts for the wildfire risk identified in the electric utility's risk assessment;

(14) Describe the actions that the electric utility will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a wildfire, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, including but not limited to undergrounding lines, insulation of distribution wires, and pole replacement;

(15) Demonstrate that the electric utility has an adequately sized and trained workforce to promptly restore service after a wildfire, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the electric utility;

(16) Identify the estimated development, implementation, and administration costs for the risk-based wildfire protection plan;

(17) Identify the timelines, as applicable, for development, implementation, and administration of any aspects of the risk-based wildfire protection plan;

(18) Describe how the plan is consistent with the electric utility's other hazard mitigation and grid hardening plans, including plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and prepositioning equipment and employees;

(19) Identify community outreach and public awareness efforts that the electric utility will use before, during, and after a wildfire;

(20) Describe the processes and procedures that the electric utility will use to do all of the following:

- (A) Monitor and audit the implementation of the plan;
- (B) Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies; and

Proposed Amendments to HB 2407, HD2

(C) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and rules of the public utilities commission;

(21) Demonstrate elements of data governance, including enterprise systems; and

(22) Any modifications to paragraphs (1) to (21), or other information as required by the public utilities commission.

(b) Each electric utility shall regularly submit updates to its risk-based wildfire protection plan for approval on a schedule determined by the public utilities commission.

(c) To develop the risk-based wildfire protection plan, the electric utility may consult with and consider information from federal, state, local, and other expert entities.

(d) The public utilities commission shall evaluate each electric utility's risk-based wildfire protection plan and plan updates according to the public utilities commission's rules of practice and procedure in chapter 16-601 of the Hawaii administrative rules. The public utilities commission shall allow the department of land and natural resources and local emergency services agencies to participate in proceedings evaluating risk-based wildfire protection plans.

(e) No more than ninety days after the last party filing, and no more than a total of one hundred eighty days after the initial application for approval of the submitted wildfire protection plan or update in the docketed proceeding, the public

Proposed Amendments to HB 2407, HD2

utilities commission shall approve, approve with conditions, or reject the plan or update based on whether the public utilities commission finds that the plan or update is based on reasonable and prudent practices and designed to meet all applicable rules and standards adopted by the public utilities commission. The public utilities commission may, in approving the plan or update with conditions, direct the electric utility to make modifications to the plan or updates that the public utilities commission believes represent a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk based on the evidentiary record in the proceeding. The public utilities commission shall issue a decision explaining its determinations, including findings of fact and conclusions of law, in accordance with chapter 91. Such decision shall include a determination of the reasonable costs to develop, implement and administer the plan. The commission shall establish a mechanism to allow timely and prompt recovery of such costs in rates, which shall be incremental to the rates the utility is otherwise authorized to charge.

(f) The electric utility shall track the costs that it actually incurs to develop, implement, and administer the risk-based wildfire protection plan. In the electric utility's risk-based wildfire protection plan update, the electric utility shall report on the costs as actually incurred for the most recent past period for which the information is available.

If the actual costs are less than the amounts that the public utilities commission determined were reasonable in its

Proposed Amendments to HB 2407, HD2

decision under subsection (e), the public utilities commission shall direct the electric utility to refund or credit the costs to ratepayers.

If the actual costs are equal to or greater than the amounts that the public utilities commission determined were reasonable in its decision under subsection (e), the commission shall not direct the electric utility to refund to ratepayers the amount the commission previously determined was reasonable but may disallow the recovery from ratepayers of any additional costs the commission finds unreasonable. For purposes of evaluating additional costs, the following shall apply:

(1) Actual costs that are no more than fifteen per cent greater than the costs the commission previously determined were reasonable shall be presumed prudent and authorized for recovery from ratepayers absent proof by clear and convincing evidence that the costs were unreasonable; and

(2) The electric utility shall have the burden of proving the reasonableness of actual costs that are more than fifteen per cent greater than the costs the commission previously determined were reasonable.

(g) The public utilities commission's approval of a risk-based wildfire protection plan does not by itself establish a defense to any enforcement action for violation of a public utilities commission decision, order, or rule, or relieve an electric utility from proactively managing wildfire risk, including by monitoring emerging practices and technologies. Electric utilities are expected to continuously improve and take reasonable actions outside of approved plans to mitigate wildfire risk. This paragraph does not create or

Proposed Amendments to HB 2407, HD2

support a duty in a civil action or give rise to civil liability that would not exist in the absence of this paragraph.

(2) No electric utility shall be civilly liable for the death of or injury to persons, or property damage, as a result of (1) any act taken in accordance with a plan or updated plan approved by the public utilities commission under this Chapter; or (2) any failure to take an action proposed by an electric utility in a plan or updated plan and thereafter removed from the plan by modification of the public utilities commission.

(3) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the public utilities commission or its agents and employees; the State; the public utilities commission commissioners; or the commissioners' representatives for the death of or injury to persons, or property damage, for any action taken by them in the performance of their powers and duties under this chapter.

(h) The commission shall, as appropriate, adopt rules or issue orders for the implementation of this section. The rules or orders may include but need not be limited to procedures and standards regarding data governance, risk-based decision-making, vegetation management, public power safety shutoffs and restorations, pole materials, circuitry, and monitoring systems.

Proposed Amendments to HB 2407, HD2

§269-D Penalties. ~~In addition to any other penalties provided by law, a failure by an electric utility to comply with an approved plan or part of an approved plan shall be subject to a civil penalty, as determined by the commission. Imposition of penalties pursuant to this section shall otherwise be in accordance with section 269-28 and all applicable administrative rules. All moneys collected under this section shall be deposited into the public utilities commission special fund.~~



Testimony Before the House Committee on Finance

By David Bissell
President and Chief Executive Officer
Kaua'i Island Utility Cooperative
4463 Pahe'e Street, Suite 1, Līhu'e, Hawai'i, 96766-2000

Monday, February 26, 2024; 2:00 pm
Conference Room #308 & Videoconference

House Bill No. 2407 HD2 - RELATING TO WILDFIRE RISK MITIGATION

To the Honorable Chair Kyle T. Yamashita, Vice Chair Lisa Kitagawa and Members of the Committee:

Kaua'i Island Utility Cooperative (KIUC) is a not-for-profit utility providing electrical service to more than 34,000 commercial and residential members.

KIUC supports this measure with amendments.

KIUC supports establishing a requirement for electric utilities to develop and maintain effective wildfire mitigation plans, to be reviewed and approved by the Hawai'i Public Utilities Commission (HPUC). In September, KIUC engaged a consulting firm and is in the process of developing a wildfire mitigation plan which is expected to be complete within the next two months. The draft wildfire mitigation plan being developed by KIUC is substantially aligned with the wildfire protection plan outlined in this measure.

In addition to requiring utilities to develop and maintain current wildfire protection plans, this bill provides a mechanism for public utility securitization to finance wildfire risk mitigation costs and expenses. Due to the significant costs of issuing and servicing a securitized debt offering, securitization would likely only be applicable to wildfire mitigation costs in excess of \$100 million dollars. KIUC does not anticipate our wildfire mitigation costs and expenses reaching this level, making securitization of limited applicability to financing the needs for Kaua'i. **Because of this, as currently drafted, this bill does not give parity to cooperative utilities in the ability to recover costs for wildfire mitigation efforts.**

KIUC, as a cooperative, has access to low-cost capital through the U.S.D.A. Rural Utilities Service (RUS), which would likely be a lower interest rate source of debt capital than even AAA-rated securitized bonds. If RUS debt is unavailable, KIUC would seek capital from one of our cooperative lenders, such as the National Rural Utilities Cooperative Finance Corporation or CoBank.

Rate recovery of prudently incurred wildfire mitigation costs without the time and expense of a filing of a general rate increase proceeding with the HPUC would enhance KIUC's ability to implement its wildfire protection plan in a financially efficient manner. KIUC recommends the bill be amended to include a provision for electric cooperatives to recover the wildfire protection fee as a surcharge or "rider" to member electric rates upon approval of costs by the HPUC in the event that issuing bonds under securitization provisions is not cost effective. **Our recommended amendment to §269-E, which would allow recoverability of prudent costs for cooperatives consistent with investor-owned utilities, is provided below:**

(p) Absent a financing order, the public utilities commission may create, pursuant to an application from a cooperative electric utility, a nonbypassable surcharge referred to as a wildfire protection fee, which shall be applied to recover financing costs and wildfire protection costs as described in §269-A (Definitions). The wildfire protection fee will be a dedicated, discrete tariff rider, subject to application requirements similar to those listed in §269-E (b) Such costs shall be reconciled and adjusted on a yearly basis via a yearly informational filing with the HPUC and shall go into effect 30 days after such yearly filing.

KIUC also encourages amending the "catastrophic wildfire" definition in §269-A Definitions to "...more than five hundred residential or commercial structures or more than \$100 million dollars in reconstruction costs and property damage." The broader definition allows the financial scale of damages to be considered rather than purely number of structures impacted.

Finally, KIUC supports amendments in §269-E (e) requiring that the wildfire protection fee be imposed on existing and future ratepayers in a utility service territory. We interpret the language in HD2 as clarifying that, should Hawaiian Electric seek a financing order, only HECO and/or their customers would be subject to recovery of the associated securitization costs and fees.

Mahalo for your consideration and efforts to enhance the safety of our community.



HOUSE COMMITTEE ON FINANCE

HEARING DATE: Monday, February 26, 2024
TIME: 2:00 p.m.
PLACE: State Capitol
Conference Room 308

RE: **Supports with Proposed Amendments-** House Bill 2407, House Draft 2 Relating To Wildfire Risk Mitigation

Aloha Honorable Chair Yamashita, Vice Chair Kitagawa, and Members of the Joint-Committee;

The International Brotherhood of Electrical Workers Local 1260 (IBEW 1260) would like to respectfully offer the following testimony in support of House Bill 2407 House Draft 2 with the amendments offered by Hawaiian Electric (HECO).

IBEW 1260 is comprised of approximately 3,000 members representing Hawaii's electric utility companies as well as government service contracts and media personnel throughout Hawaii, Guam, and Wake Island. Our members include a diverse local workforce of dedicated, highly skilled, and trained individuals working 24 hours a day, 7 days a week, to generate, transmit, and distribute electricity throughout Hawai'i and to ensure the reliability and resiliency of this precious resource.

IBEW 1260 **supports with proposed amendments offered by HECO**, HB 2407, HD2 which creates a process for electric utilities to develop and submit wildfire protection plans to the Public Utilities Commission for approval and allow the recovery of related costs and expenses through securitization, while avoiding a disproportionate impact on a specific ratepayer or county, however respectfully requests that your committee(s) consider the amendments offered by Hawaiian Electric.

The economic strength and viability of Hawai'i's electric utilities have a direct impact on our members and their families. Recent reports indicate that over 40% of Hawai'i's residents are ALICE and living paycheck to paycheck. IBEW1260 has enjoyed decades of partnering with the utilities to provide its members with rewarding careers and quality of life.

Electric utilities and the infrastructure they provide are vital to our community. Having the tools necessary to effectively manage risk and implement policy with clear direction, expected outcomes, and the ability to access low-cost financing, and reasonably recover associated costs is imperative to the utilities continued viability. As such, we support and respectfully request your consideration of proposed amendments to HB2407, HD2 offered by the utility.

Mahalo for the opportunity to testify on this important matter.



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
FINANCE**

**HB 2407, HD2
Relating to Wildfire Risk Mitigation**

Monday, February 26, 2024
2:00 PM
State Capitol, Conference Room 308

Jimmy D. Alberts
Senior Vice President & Chief Operations Officer
Hawaiian Electric

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee,

My name is Jimmy D. Alberts, Senior Vice President & Chief Operations Officer for Hawaiian Electric and I am testifying in **support and requesting amendments to HB2407, HD2, Relating to Wildfire Risk Mitigation** and appreciate that this bill is a part of the Governor's package.

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Utilities Commission (“PUC” or “Commission) is best positioned to decide what details should and shouldn’t be included in a given plan.

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part of approving a plan, the Commission must decide *both* what measures are necessary for safety *and* what measures would be too costly to be reasonable. For example, the Commission might decide that a power shutoff in high wind conditions is needed to protect public safety. If a plaintiff could sue the utility for damages resulting from the power outage, the Commission's decision would be undermined. On the other hand, if a plan requires a utility to inspect certain poles every year, and the utility fails to do so, a plaintiff would not be barred from alleging the utility was negligent.

Hawaiian Electric supports HB 2407, HD2 with amendments and requests the Committee's favorable consideration, while recognizing that we continue to work with the Attorney General's office on the amendments to the securitization section of the bill.

Proposed Amendments to HB 2407, HD2

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- (1) Account for the duties of persons responsible for executing the plan;
- (2) Describe the objectives of the plan;
- (3) Identify areas that are subject to a heightened risk of wildfire and are:
 - (A) Within the right of way or legal control or ownership of the electric utility; and
 - (B) Outside the right of way or legal control or ownership of the electric utility but within a reasonable distance, as determined by the public utilities commission, of the electric utility's generation or transmission assets;
- (4) Identify a means for mitigating wildfire risk that reflects a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk;
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Proposed Amendments to HB 2407, HD2

(6) Identify the metrics the electric utility plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics;

(7) Describe how the application of previously identified metrics to previous plan performances has informed the plan;

(8) After seeking information from state and local entities, identify a protocol for the deenergizing of power lines and adjusting of power system operations to mitigate wildfires, promote the safety of the public and first responders, and preserve health and communication infrastructure;

(9) Describe appropriate and feasible procedures for notifying a customer who may be affected by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, operators of wastewater and water delivery infrastructure, and operators of telecommunications infrastructure;

(10) Describe the procedures, standards, and time frames that the electric utility shall use to inspect utility infrastructure in areas that the electric utility identifies under paragraph (1), including whether those procedures, standards, and time frames are already set forth in the electric utility's existing plans or protocols and in coordination with any relevant entities;

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(12) Include a list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electric utility's service territory. The list shall include but not be limited to the following:

- (A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electric utility's equipment and facilities; and
- (B) Particular risks and risk drivers associated with topographic and climatological risk factors

Proposed Amendments to HB 2407, HD2

throughout the different parts of the electric utility's service territory;

(13) Describe how the plan accounts for the wildfire risk identified in the electric utility's risk assessment;

(14) Describe the actions that the electric utility will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a wildfire, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, including but not limited to undergrounding lines, insulation of distribution wires, and pole replacement;

(15) Demonstrate that the electric utility has an adequately sized and trained workforce to promptly restore service after a wildfire, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the electric utility;

(16) Identify the estimated development, implementation, and administration costs for the risk-based wildfire protection plan;

(17) Identify the timelines, as applicable, for development, implementation, and administration of any aspects of the risk-based wildfire protection plan;

(18) Describe how the plan is consistent with the electric utility's other hazard mitigation and grid hardening plans, including plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and prepositioning equipment and employees;

(19) Identify community outreach and public awareness efforts that the electric utility will use before, during, and after a wildfire;

(20) Describe the processes and procedures that the electric utility will use to do all of the following:

- (A) Monitor and audit the implementation of the plan;
- (B) Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies; and

Proposed Amendments to HB 2407, HD2

(C) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and rules of the public utilities commission;

(21) Demonstrate elements of data governance, including enterprise systems; and

(22) Any modifications to paragraphs (1) to (21), or other information as required by the public utilities commission.

(b) Each electric utility shall regularly submit updates to its risk-based wildfire protection plan for approval on a schedule determined by the public utilities commission.

(c) To develop the risk-based wildfire protection plan, the electric utility may consult with and consider information from federal, state, local, and other expert entities.

(d) The public utilities commission shall evaluate each electric utility's risk-based wildfire protection plan and plan updates according to the public utilities commission's rules of practice and procedure in chapter 16-601 of the Hawaii administrative rules. The public utilities commission shall allow the department of land and natural resources and local emergency services agencies to participate in proceedings evaluating risk-based wildfire protection plans.

(e) No more than ninety days after the last party filing, and no more than a total of one hundred eighty days after the initial application for approval of the submitted wildfire protection plan or update in the docketed proceeding, the public

Proposed Amendments to HB 2407, HD2

utilities commission shall approve, approve with conditions, or reject the plan or update based on whether the public utilities commission finds that the plan or update is based on reasonable and prudent practices and designed to meet all applicable rules and standards adopted by the public utilities commission. The public utilities commission may, in approving the plan or update with conditions, direct the electric utility to make modifications to the plan or updates that the public utilities commission believes represent a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk based on the evidentiary record in the proceeding. The public utilities commission shall issue a decision explaining its determinations, including findings of fact and conclusions of law, in accordance with chapter 91. Such decision shall include a determination of the reasonable costs to develop, implement and administer the plan. The commission shall establish a mechanism to allow timely and prompt recovery of such costs in rates, which shall be incremental to the rates the utility is otherwise authorized to charge.

(f) The electric utility shall track the costs that it actually incurs to develop, implement, and administer the risk-based wildfire protection plan. In the electric utility's risk-based wildfire protection plan update, the electric utility shall report on the costs as actually incurred for the most recent past period for which the information is available.

If the actual costs are less than the amounts that the public utilities commission determined were reasonable in its

Proposed Amendments to HB 2407, HD2

decision under subsection (e), the public utilities commission shall direct the electric utility to refund or credit the costs to ratepayers.

If the actual costs are equal to or greater than the amounts that the public utilities commission determined were reasonable in its decision under subsection (e), the commission shall not direct the electric utility to refund to ratepayers the amount the commission previously determined was reasonable but may disallow the recovery from ratepayers of any additional costs the commission finds unreasonable. For purposes of evaluating additional costs, the following shall apply:

(1) Actual costs that are no more than fifteen per cent greater than the costs the commission previously determined were reasonable shall be presumed prudent and authorized for recovery from ratepayers absent proof by clear and convincing evidence that the costs were unreasonable; and

(2) The electric utility shall have the burden of proving the reasonableness of actual costs that are more than fifteen per cent greater than the costs the commission previously determined were reasonable.

(g) The public utilities commission's approval of a risk-based wildfire protection plan does not by itself establish a defense to any enforcement action for violation of a public utilities commission decision, order, or rule, or relieve an electric utility from proactively managing wildfire risk, including by monitoring emerging practices and technologies. Electric utilities are expected to continuously improve and take reasonable actions outside of approved plans to mitigate wildfire risk. This paragraph does not create or

Proposed Amendments to HB 2407, HD2

support a duty in a civil action or give rise to civil liability that would not exist in the absence of this paragraph.

(2) No electric utility shall be civilly liable for the death of or injury to persons, or property damage, as a result of (1) any act taken in accordance with a plan or updated plan approved by the public utilities commission under this Chapter; or (2) any failure to take an action proposed by an electric utility in a plan or updated plan and thereafter removed from the plan by modification of the public utilities commission.

(3) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the public utilities commission or its agents and employees; the State; the public utilities commission commissioners; or the commissioners' representatives for the death of or injury to persons, or property damage, for any action taken by them in the performance of their powers and duties under this chapter.

(h) The commission shall, as appropriate, adopt rules or issue orders for the implementation of this section. The rules or orders may include but need not be limited to procedures and standards regarding data governance, risk-based decision-making, vegetation management, public power safety shutoffs and restorations, pole materials, circuitry, and monitoring systems.

Proposed Amendments to HB 2407, HD2

~~§269-D **Penalties.** In addition to any other penalties provided by law, a failure by an electric utility to comply with an approved plan or part of an approved plan shall be subject to a civil penalty, as determined by the commission. Imposition of penalties pursuant to this section shall otherwise be in accordance with section 269-28 and all applicable administrative rules. All moneys collected under this section shall be deposited into the public utilities commission special fund.~~

HB-2407-HD-2

Submitted on: 2/24/2024 5:56:38 PM

Testimony for FIN on 2/26/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Comments	Written Testimony Only

Comments:

It was clear during questioning at the WAL/EEP hearing that HECO has not done its due diligence to assess and tighten its own belt before coming up with a plan that ratepayers are going to have to suffer from. Despite rhetoric that HECO is concerned about low and moderate income ratepayers, their actions speak louder than their words. For one, the excessive salary of the CEO would be a good place to start when looking internally at what can be done first before expecting ratepayers to shoulder these costs. By failing to first look internally, like any other business would be expected to do, HECO demonstrates that they care more about shareholders than the community. I urge the legislature to ensure HECO is made to take appropriate “belt-tightening” measures first, before expecting ratepayers to cover all these expenses.

Mahalo for the opportunity to testify.