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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Thursday, February 13, 2025
2:00 p.m.
Conference Room 329**

**On the following measure:
H.B. 339, H.D. 1, RELATING TO ELECTRIC UTILITIES**

Chair Matayoshi 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 offers comments on this bill.

The purpose of this bill is to: (1) require the Public Utilities Commission (Commission) to impose certain conditions of approval on any order approving, in whole or in part, an application for the proposed acquisition, merger, or consolidation of an electric utility company by an acquiring entity; (2) establish a process to ensure that when an electric utility is subject to an application for a proposed acquisition, merger, or consolidation by a potential acquiring entity that is an investor-owned utility and seeks approval of the application from the Commission, the electric utility shall demonstrate that it solicited bids from potential acquiring entities that operate under a non-investor-owned utility ownership model; and (3) require the electric utility to submit acceptable bids from a potential acquiring entity operating under a non-investor-owned utility ownership model

concurrently with an application by a potential acquiring entity that is an investor-owned utility.

The Department appreciates the intent of this measure to preserve key energy laws and regulatory polices that have been developed through the years in the State's ongoing efforts to transition from fossil fuels to renewables given the uncertainties regarding the electric utility serving the majority of the State (i.e., the Hawaiian Electric Company). The Department shares the concerns expressed in the measure.

Nonetheless, while the parameters expressed in the measure to preserve the renewable portfolio standards (RPS) laws and benchmarks and the performance-based regulation framework for which Hawaiian Electric is currently operating under, to name a few, if reorganization of Hawaiian Electric results in the acquisition, merger, or consolidation of Hawaiian Electric leading to a change in management and control, the Department believes that such a measure may not be needed. Any changes in the current energy laws including those regarding RPS would require legislative review and passage in the future as it currently does. In addition, the Commission's broad general and regulatory authority over all public utilities, including electric utilities serving the State, is not in question. While the Department views this measure as providing guidance to the Commission and expressing the Legislature's preference for non-investor-owned utility ownership, the change in the law as set forth in this measure may have unintended consequences that cannot be foreseen at this time and may hamper the Department's ability to advocate for ratepayers and the public interest in the future.

Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



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Testimony of the Public Utilities Commission

To the
House Committee on
Consumer Protection & Commerce

February 13, 2025
2:00 p.m.

Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

Measure: H.B. No. 339, H.D. 1
Title: RELATING TO ELECTRIC UTILITIES.

Position:

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

Comments:

The Commission appreciates the intent of this measure to safeguard the public interest by requiring that the Commission impose certain conditions of approval on any order approving, in whole or in part, an application for a proposed acquisition, merger, or consolidation of an electric utility by an acquiring entity. The Commission also appreciates the intent of this measure to encourage diversity in utility ownership models by establishing a process to ensure that when an application for the proposed acquisition, merger, or consolidation of an electric utility company is filed with the Commission by an acquiring entity that is an investor-owned utility, alternative applications submitted by entities that operate under a non-investor-owned utilities ownership model are concurrently reviewed.

The Commission appreciates the work done by the Committee on Energy and Environmental Protection to advance this measure. Specifically, the Commission greatly appreciates the amendment to §269-B of this bill that would require that an electric utility subject to a proposed acquisition, merger, or consolidation demonstrate that it has solicited bids from entities that operate under non-investor-owned utility ownership models as part of any acquisition, merger, or consolidation application.

The Commission notes that preemptively prescribing certain conditions of approval on any order approving, in whole or in part, an application for a proposed acquisition, merger,

or consolidation of an electric utility by an acquiring entity may have the unintended consequence of discouraging or disincentivizing a potential acquiring entity from presenting to the Commission an acquisition, merger, or consolidation application that might be in the public interest. Nevertheless, the Commission is encouraged that H.B. 339, H.D. 1 provides the Commission with the flexibility to “consider or impose” those conditions of approval rather than simply mandate the Commission impose those conditions of approval, as the Commission would still retain the ability to determine whether the imposition of those prescribed conditions is just and reasonable and in the public interest.

The Commission remains committed to complying with its statutory duties in the exercise of the Commission’s power and authority regardless of whether this Committee chooses to move H.B. 339, H.D. 1 forward or not. These statutory duties include, but are not limited to, holding any electric utility company accountable for compliance with the renewable portfolio standards set forth in HRS § 269-92(a) and establishing and maintaining the performance incentive and penalty mechanisms for electric utility rates pursuant to HRS § 269-16.1.

Thank you for the opportunity to testify on this measure.



INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 1260 EMPOWERING THE PACIFIC

THIRTY-THIRD LEGISLATURE, 2025, Committee on Consumer Protection and Commerce

HEARING DATE: Thursday, February 13, 2025

TIME: 2:00 p.m.

PLACE: House Committee Room 329

RE: House Bill 339 HD1- **STRONG SUPPORT with Proposed Amendments**

Aloha Honorable Chair Matayoshi, Vice-Chair Chun, and Committee Members;

The International Brotherhood of Electrical Workers Local 1260 (IBEW 1260) would like to offer the following testimony in SUPPORT of House Bill 339 HD1.

IBEW Local 1260, is comprised of approximately 3,000 members throughout Hawaii and Guam and consists of a diverse and highly-skilled workforce that supports the electric utility infrastructure across our state as well as government service contracts and broadcasting. It's our duty to serve and to protect the well-being of our members, but beyond that, it is incumbent upon all of us to serve and protect the well-being of our island home.

HB339 HD1 requires the PUC to impose certain conditions of approval on any order approving, in whole or in part, an application for the acquisition, merger, or consolidation of an electric utility company; and establishes a process to ensure that if an investor-owned utility files such an application, due consideration is concurrently given to a non-investor-owned utility.

Local headlines consistently highlight the many challenges of living in Hawaii, ranging from the high cost of living, to limited economic opportunities, housing challenges, and quality of life concerns. A 2024 ALICE report ¹noted that 53% of residents under 35 years old are below the ALICE threshold, threatening Hawaii's future workforce. Moreover, a U.S. Census Bureau report indicates a steady decline in Hawaii's population over a recent four-year period.

Hawaii's fragile economy and shrinking workforce, coupled with the sharp increase in demand for qualified and skilled electrical utility workers needed to pursue the State's renewable energy goals, as well as upgrade, maintain, and develop Hawaii's electric utility infrastructure to ensure safe, reliable service to the community, make it imperative to protect Hawaii's electric utility workforce in the event of an acquisition, merger, or consolidation.

IBEW Local 1260 respectfully submits the attached proposed amendments to House Bill 339 HD1, seeking to ensure that Hawaii's electric utility workforce continues to serve the needs of our communities, and respectfully request that they be included should this measure move forward.

Mahalo for the opportunity to testify on this measure.

¹ https://www.auw.org/wp-content/uploads/2025/01/2024_ALICE-Report_Facts-and-Figures_v-25-01-09.pdf



INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 1260 EMPOWERING THE PACIFIC

**Proposed Amendments to House Bill 339 HD1; Related to Electric Utilities
Offered for consideration by: IBEW Local 1260**

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§269-A Acquisition, merger, or consolidation of electric utility companies; conditions of approval. (a) Notwithstanding sections 269-7.5, 269-18, and 269-19, in any public utilities commission order approving, in whole or in part, an application for the proposed acquisition, merger, or consolidation of an electric utility company by an acquiring entity, the public utilities commission shall consider or impose certain conditions of approval established under this section, including any other conditions it deems necessary[-]; provided that subsections (e) and (f) herein shall be imposed by the public utilities commission as a required condition of approval established in the section.



Email: communications@ulupono.com

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Thursday, February 13, 2025 — 2:00 p.m.

Ulupono Initiative supports HB 339 HD 1, Relating to Electric Utilities.

Dear Chair Matayoshi and Members of the Committee:

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

Ulupono supports HB 339 HD 1 with comments. This bill seeks to strengthen certain aspects of regulatory oversight of electric utility acquisitions, mergers, or consolidations and/or bankruptcies in Hawai'i. This bill represents a crucial step in ensuring that our state's ambitious renewable energy goals remain safeguarded and that the interests of Hawai'i's electric utility customers and residents are prioritized. These critical policy goals and outcomes provide lasting benefits to utility customers not only in the transition to renewables but also in supporting lower bills for customers.

Ulupono recommends this committee adopt the Senate version of this bill, SB 137 SD 1, which preserves the Public Utilities Commission's obligation to oversee the 90-day holdout period that provides an opportunity for community-based solutions to emerge during a time of purchase or sale.

As Hawai'i continues to transition from fossil fuels to renewable energy, we have achieved significant milestones, such as the 100% Renewable Portfolio Standards (RPS) and Performance-Based Regulation frameworks. However, the potential for mergers or acquisitions involving investor-owned utilities, which may arise from the Maui wildfires or other circumstances, poses a risk of backsliding or undermining these advancements to the detriment of utility customers. HB 339 addresses this risk by mandating that the Public Utilities Commission (PUC) impose conditions of approval for such transactions to preserve and strengthen our progress toward sustainability. This legislation provides critical safeguards, including:

1. **Preserving Renewable Energy Statutory Mandates and Policy Goals:** The bill ensures that acquiring entities cannot propose or support changes that would dilute

Investing in a Sustainable Hawai'i

the RPS or delay the state's clean energy deadlines. This protects the integrity of Hawai'i's transition to renewable energy for the benefit of utility customers.

2. **Protecting Performance-Based Regulation:** By preventing the weakening of performance-based mechanisms, the bill ensures that utilities remain accountable for improving service quality and cost control while advancing renewable energy integration.
3. **Enabling the Evaluation of Alternative Ownership Models:** Establishing a process for considering offers from cooperative utilities or other similar types of non-investor-owned utility applications provides an opportunity for community-based solutions to emerge during a time of purchase or sale.
4. **Maintaining Existing Agreements:** Provisions to uphold current power purchase agreements safeguard the investments and contributions of independent power producers who play a vital role in expanding our renewable energy capacity.

In addition to these key protections, the bill fosters transparency and fairness in the regulatory process. It signals Hawai'i's unwavering commitment to a clean energy future, ensuring that utility ownership changes do not compromise public interest or environmental sustainability. By enacting HB 339, the Legislature will reaffirm its dedication to securing a resilient, reliable, and sustainable energy system for Hawai'i. Ulupono Initiative urges legislators to pass this measure to protect the progress we as a state have achieved and to ensure that our renewable energy goals remain on track.

Thank you for the opportunity to testify.

Respectfully,

Mariah Yoshizu
Government Affairs Associate



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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Scot Z. Matayoshi, Chair

Rep. Cory M. Chun, Vice Chair

DATE: Thursday, February 13, 2025

TIME: 2:00 PM

Conference Room 329

RE: HB 339 Mergers & Acquisitions.

Comments

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 55 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land was an intervenor in the Public Utilities Commission proceedings regarding the proposed acquisition of HECO by NextEra and the sale of the Hawaii Gas parent company. Life of the Land reviewed the sale of CUC's Kauai Electric Division to KIUC and the sale of the parent company of Hawaiian Telcom.

The concept behind the bill makes sense but the process raises concerns.

Typically, Company A approaches Company B with a proposal. The companies sign a Non-Disclosure Agreement (NDA). If a deal is approved by the respective boards, then a public announcement is released, and the companies agree to a unified approach.

At what point would a solisitation go out seeking alternatives?

A better approach would be that an unsolisited third party could intervene in the PUC proceeding and the competing offers are considered together.

Mahalo

Henry Curtis
Executive Director