



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
H.B. NO. 974, RELATING TO ENERGY.

BEFORE THE:
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

DATE: Thursday, January 30, 2025 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Randall S. Nishiyama, Supervising Deputy Attorney General

Chair Lowen and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill seeks to have the State, pursuant to step-in agreements, make payments to independent power producers (IPP) for purchased power in the event of a default by an electric utility. A step-in agreement is an agreement that allows a third party, the State, to "step-in" and take over certain obligations under the agreement if an electric utility fails to meet its obligations under the agreement, for example, failing to make payments to an IPP. The step-in agreement is intended to provide continuity of payments to an IPP. Further, this bill establishes the statutory framework to effectuate this program, including establishing the Power Purchasing Costs Trust Fund to deposit moneys received from ratepayers.

We note that the bill proposes several features that could adversely impact the State and its residents. The following list highlights those features that we believe are material for the Legislature to consider in its assessment of the bill.

1. ***Elimination of discretion by the State:*** The bill ***requires*** the Department of Budget and Finance (B&F) to enter into "step-in agreements" with the IPPs. Under a step-in agreement, B&F is required to make payments for power purchase costs owed by an electric utility to an independent power producer in the event of a default by the electric utility under its power purchase agreement

with the IPP. "The department **shall** enter into a step-in agreement with an obligee that **requires** the department to make prompt and full payments for power purchase costs owed by an electric utility to the obligee in the event of a default." See page 9, lines 12-16 (emphases added).

2. ***Elimination of discretion by the Public Utilities Commission:*** The bill **requires** that the Public Utilities Commission (PUC) authorize a surcharge to be included in electric utility customer bills and that the PUC allows monthly rate adjustments to become effective upon a filing by the electric utility with the PUC. "By August 1, 2025, the public utilities commission **shall** authorize a surcharge proposed by an electric utility, referred to as the power purchase costs reserve fee, the revenue from which shall be accorded the same treatment as revenue from power purchase charges as described in section 269-B(g). The power purchase costs reserve fee may be included in the purchased power adjustment clause on customer bills." See page 18, lines 12-18.
3. ***Creation of a Reserve Account Equates to an Additional Source of Revenues for an Electric Utility at the Cost of the Customers:*** The bill provides for the establishment of a reserve account that is funded through a surcharge to be included in electric utility customer bills. The bill proposes a surcharge in an amount not to exceed fifteen percent of the utility's forecasted monthly power purchase costs of all power purchase agreements (see page 18, line 19, to page 19, line 7) subject to a "step-in agreement" in the case that the utility has a shortfall in revenues based on an overestimate of revenues by the utility plus an amount sufficient to recover costs related to maintenance of the reserve account and any applicable taxes and fees. Currently, any shortfall in the utility's forecasted monthly power purchase costs is currently covered by the utility. Establishing a reserve account and implementing a surcharge (paid by the customers) to fund such an account provides an additional source of revenue for the utility, at the expense of its customers, which additional revenue source can be used by the utility to fulfil its payment obligations in case the utility forecasts incorrectly.

4. ***Potential State Liability.*** We need to ensure that any obligation of B&F pursuant to a step-in agreement does not create or result in liability to B&F and the State. For example, the bill proposes that title to the revenues from power purchase charges (paid by the customers) and the subsidy for the reserve account after a default by the utility under a power purchase agreement resides with B&F. See page 11, line 18, to page 12, line 12. Additionally, a step-in agreement obligates B&F to make payments to an IPP after a default by the utility under a power purchase agreement. See page 9, line 12, to page 10, line 13. In all circumstances, we need to ensure that any default or failure to make payments by B&F pursuant to the terms of a step-in agreement does not result in any recourse by the utility or an IPP to any money of the State other than the revenues derived from power purchase charges and the subsidy for the reserve account collected and on deposit in the trust fund established by B&F.

We respectfully ask the Committee to consider our comments.



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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Energy & Environmental Protection
Thursday, January 30, 2025
9:00 a.m.
Conference Room 325

On the following measure:
H.B. 974, RELATING TO ENERGY

Chair Lowen 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) allow the State to enter into step-in agreements for payment obligations arising under certain power purchase agreements (PPA); (2) establish the Power Purchasing Costs Trust Fund; (3) establish that revenues from on-bill charges for power purchase agreements and accompanying reserves shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the revenue and reserve to the extent of the amounts owed under the covered power purchase agreements; and (4) appoint, authorize, and empower an electric utility to serve as the billing, collection, payment, and managing agent of the Department of Budget and Finance in the service of performing step-in agreements.

The Department supports the intent of this bill which intends to address the need to continue to procure cost-effective renewable resources as the State addresses its wildfire risks and Hawaiian Electric works to restore its credit ratings. While the arrangement envisioned in this bill could reassure project finance providers for renewable energy projects, the Department is concerned that the fifteen percent surcharge proposed in the current Hawaii Revised Statutes § 269-E is more than necessary to fulfill the Hawaii Constitution Art. VII, § 13, clause 8 requirement to “. . . maintain a reserve in an amount in reasonable proportion to the outstanding” PPA obligations and could continue indefinitely. Hawaii ratepayers already pay very high electric utility rates, and the non-bypassable power purchase surcharges to cover the PPA payments to independent power producers should be – if comparable to recently discussed securitization mechanisms – rated as very low-risk investment grade guarantees even without any reserve requirement. The Department acknowledges the requirement in the Hawaii Constitution for a reserve, but it respectfully posits that the amount of reserve could be significantly below the fifteen percent of the forecasted monthly power purchase costs. Additionally, the Department recommends that language be included to specify that once the reserve amount has been attained no additional charges will be collected from ratepayers. The Department also recommends that any interest earned from the reserve amount be refunded to ratepayers in a timely manner at regular intervals (e.g., annually) or used toward resilience investments.

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
Energy & Environmental Protection

Thursday, January 30, 2025
9:00 a.m.

Chair Lowen, Vice Chair Perruso, and Members of the Committee:

Measure: H.B. No. 974
Title: RELATING TO ENERGY.

Position:

The Public Utilities Commission ("Commission") supports H.B. 974 and offers the following comments for consideration.

Comments:

The Commission supports the intent of this measure to encourage the continued development of affordable clean energy resources for the benefit of utility customers in the State.

The Commission is aware of the concerns surrounding Independent Power Producer ("IPPs") financing cost increases and market uncertainty created by Hawaiian Electric's non-investment grade credit rating. The Commission closely monitors the Stage 3 Request for Procurement process (Docket No. 2017-0352) and meets regularly with the independent Observer on the status of all projects. IPPs in their ongoing Power Purchase Agreement ("PPA") negotiations with Hawaiian Electric have sought higher prices than previous rounds to offset their increased financing costs caused by Hawaiian Electric's PPA default risk. Hawaiian Electric in response has sought to find ways to accommodate IPPs to balance ratepayer electricity costs and developer economics. IPPs bidding into the forthcoming Integrated Grid Plan RFP ("IGP RFP"), which is under review by the Commission for approval (Docket No. 2024-0258), will face these same financing cost challenges unless Hawaiian Electric's credit rating improves.

This measure may provide a means to reduce the default risk costs imposed on IPPs by their potential lenders.

Furthermore, the Step-in Agreement will ensure that IPPs continue to be paid for the renewable energy they will produce should the electric utility trigger a default. In the worst-case scenario, if IPPs are not paid for their renewable energy, the IPP may shut down operations and would result in a loss of that renewable energy source.

The Commission respectfully defers to the Department of Budget and Finance for the implementation of other portions of the measure.

Thank you for the opportunity to testify on this measure.



JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
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ADMINISTRATIVE AND RESEARCH OFFICE
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WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
ON
HOUSE BILL NO. 974

January 30, 2025
9:00 a.m.
Room 325 and Videoconference

RELATING TO ENERGY

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 974 adds a new part to Chapter 269, HRS, to: 1) require B&F to enter into a step-in agreement for payment obligations arising under power purchase agreements entered into from an electric utility and its regulated subsidiaries and independent power producers in the event of a default; 2) establish the Power Purchase Costs Trust Fund (PPCTF) within the State Treasury for B&F to collect revenues and make payments under a step-in agreement; 3) require the Public Utilities Commission (PUC) to authorize a power purchase costs reserve fee to be collected and maintained by the electric utility and transmitted to the PPCTF in the event of a step-in agreement; and 4) authorize B&F to contract with an electric utility or its successor to act as an agent of the department to provide billing, collection, payment, management, and other related services to effectuate a step-in agreement.

It is unclear whether the proposed PPCTF would be self-sustaining even after the deposit of surcharge revenues from power purchase costs reserve fees given the potential overall financial state of the electric utility should a default occur.

B&F also echoes the concerns raised by the Department of the Attorney General regarding the following features of the bill:

- The bill mandates B&F to enter into step-in agreements with no discretion to determine whether doing so is in the best interests of the State under the circumstances.
- The bill mandates PUC to authorize power purchase costs reserve fee surcharges with no discretion to determine whether doing so is in the best interest of the State and the ratepayers under the circumstances.
- The reserve account and surcharge of up to 15% of the utility's forecasted monthly power purchase costs proposed on page 18, line 19, through page 19, line 7, of the bill could provide an additional revenue source to the utility at the expense of ratepayers.
- The bill may create liability on the part of B&F and the State. Prior to any significant statutory amendments, studies should be carried out to determine the appropriate contingencies and policies necessary to protect the State and its interests as it continues its transition onto clean energy.

Thank you for your consideration of our comments.



Email: communications@ulupono.com

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Thursday, January 30, 2025 — 9:00 a.m.

Ulupono Initiative supports HB 974, Relating to Energy.

Dear Chair Lowen 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 974, which allows the State to enter into step-in agreements for payment obligations arising under certain power purchase agreements. This bill is critical to advancing Hawai'i's clean energy goals, ensuring energy reliability, and protecting utility customers from potential disruptions or increased costs.

The following points highlight why this legislation is necessary and beneficial:

1. Facilitating the Transition to Renewable Energy

The bill directly supports Hawai'i's policy goals, including achieving 100% renewable energy by 2045 and advancing a net-negative emissions economy. By providing assurances to independent power project developers and their financiers through a step-in agreement, the bill encourages continued investment in clean energy projects, even amidst the utility's lower credit rating. This will enable Hawai'i to retire aging and costly fossil-fuel plants and replace them with affordable, sustainable alternatives. In addition, this bill is intended to help ratepayers by continuing to support the addition of low-cost renewables and should not act as a financial boon for the utility.

2. Addressing Energy Reliability and Affordability

With many generating units in Hawai'i nearing retirement, the urgency of procuring replacement resources cannot be overstated. A step-in agreement, such as the one proposed, should help to ensure that independent power producers remain confident in the financial viability of their projects. This prevents potential project cancellations or escalated costs due to credit concerns, ultimately protecting customers from issues with reliability and affordability.

3. Providing Financial Stability Amidst Utility Credit Challenges

Following the tragic Maui wildfires, concerns about the financial strength of Hawaiian Electric Company and its subsidiaries have raised risks of increased prices or project

Investing in a Sustainable Hawai'i

cancellations. The proposed step-in agreements allow the State to act as a limited credit backstop, ensuring payment obligations are met. Importantly, these agreements do not constitute contingent liabilities under the State Constitution, protecting public finances while addressing credit concerns.

4. Leveraging Existing Revenue Streams

The bill establishes a dedicated fund, capitalized by on-bill charges, for power purchase agreements, to fulfill State-backed payment obligations. This structure ensures that no additional taxpayer funds are required, as revenue from power purchase charges will be utilized to reimburse the State for any payments made under step-in agreements.

5. Strengthening Energy Security and Diversification

By facilitating the development of local renewable energy resources, this bill reduces Hawai'i's dependence on imported fossil fuels, enhancing energy security and resilience against global market fluctuations.

In conclusion, this bill is a forward-thinking measure that balances the State's renewable energy aspirations with the practical needs of maintaining reliability, affordability, and financial prudence. It provides the necessary assurances to independent power producers to continue developing critical clean energy infrastructure without undue delays or costs. Ulupono respectfully urges the committee to pass this bill to secure a sustainable and resilient energy future for Hawai'i.

Thank you for the opportunity to testify.

Respectfully,

Mariah Yoshizu
Government Affairs Associate



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TESTIMONY TO THE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

9:00 AM, January 30, 2025

Conference Room 325 & Via Videoconference

HB 974

Chair Lowen, Vice Chair Perruso and Members of the Committee,

Ameresco **strongly supports** HB 974, which allows the State to enter into step-in agreements for payment obligations arising under certain power purchase agreements.

Ameresco is a leading cleantech integrator and renewable energy asset developer, owner and operator. With 25 years of experience, we have successfully completed energy saving, renewable energy and environmentally responsible projects for commercial, industrial, Federal, State and Local government in Hawai‘i, across the US, Canada and Europe. Ameresco has been a part of the Hawai‘i community for the last 15 years and committed to supporting the goals of clean, reliable and affordable energy. Last year, we completed the Kūpono Solar 42 MW/168 MWh photovoltaic solar and battery project in ‘Ewa. We currently have three additional large-scale renewable energy projects in development on O‘ahu and Maui.

HB 974 is essential for ensuring the resilience and reliability of Hawaii’s energy infrastructure by addressing the challenges faced by independent power producers (IPPs) such as Ameresco in obtaining financing for renewable energy power purchase agreements (PPAs) with Hawaiian Electric due to the recent downgrading of Hawaiian Electric’s credit rating.

Background

In January 2023, Hawaiian Electric solicited renewable energy project bids through its “Stage 3” Request for Proposals (RFP). The goal of the RFP was to procure 800-1,200 MW of renewable energy projects that would be placed in service by the end of 2029 (and additional capacity to be placed in service by 2033), which is critical to reliability and resilience. Proposals were submitted to Hawaiian Electric in April of 2023 and projects were awarded in November 2023. Between the time that the proposals were submitted and awarded, however, Hawaiian Electric’s credit rating had been significantly downgraded to sub-investment-grade status, making it much more challenging for IPPs to obtain both equity and debt financing for these large renewable projects.

Several IPPs have already withdrawn their Stage 3 projects. Additionally, many planned Stage 2 projects have also terminated or been delayed. It is in the state’s interest to ensure that the remaining projects are able to obtain financing and come online – not only to ensure that Hawai‘i is able to meet its climate and renewable energy goals, in which these Stage 3 projects play a critical role, but also for the integrity and reliability of the electric grid, and to ensure affordable rates to the ratepayers of Hawai‘i that are not tied to volatile fossil fuel prices. Hawaiian Electric’s only other current renewable energy procurement is the Integrated Grid Planning (IGP) procurement. However, the IGP procurement has been delayed pending a

contested case proceeding before the Public Utilities Commission, just now commencing. There are no other large renewable projects “in the works” beyond the Stage 3 projects.

Benefits of HB 974

HB 974 will assist in ensuring that the remaining Stage 3 renewable energy projects are able to continue moving forward by removing a project lenders’ major concerns regarding Hawaiian Electric’s current credit rating: namely, that in a bankruptcy proceeding Hawaiian Electric would be allowed to stop paying IPPs for the energy that they generated and provided to Hawaiian Electric. This risk is making it difficult to obtain the financing needed to advance these projects. HB 974 directly addresses this concern by ensuring that in the event that Hawaiian Electric stops meeting its contractual payment obligations with IPPs, then the state would essentially step in to Hawaiian Electric’s shoes and pay IPPs for the power they produced and delivered to the grid— not out of the State’s own funds but rather out of money that Hawaiian Electric has already collected and will continue to collect from ratepayers.

While it is unlikely that this scenario will come to pass, the fact that this legal mechanism exists gives lenders significant confidence in making investments in projects involving Hawaiian Electric and significantly increases IPPs ability to obtain financing for these projects.

Conclusion

In short, HB 974 is a forward-looking and necessary measure to ensure an increased amount of renewable energy is added to the grid, strengthen Hawaii’s energy infrastructure, safeguard its renewable energy progress, and protect consumers and stakeholders. The bill’s provisions align with the state’s commitment to energy security, sustainability, and economic stability.

We urge the committee to pass HB 974 and thank you for the opportunity to provide testimony.



**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION**

**HB 974
Relating to Energy**

Thursday, January 30, 2025
9:00AM
State Capitol, Conference Room 325

Rebecca Dayhuff Matsushima
Vice President, Resource Procurement
Hawaiian Electric

Dear Chair Lowen, Vice Chair Perruso, and Members of the Committee,

My name is Rebecca Dayhuff Matsushima and I am testifying on behalf of Hawaiian Electric in **strong support** of HB 974, Relating to Energy.

HB974 would provide significant support to Hawaiian Electric's customers by helping to avoid higher-cost contracts with independent power producers ("IPPs") and helping to ensure the successful development of new renewable energy projects, thereby promoting system reliability..

Project developers responding to Hawaiian Electric's most recent Request for Proposals have indicated that the company's current sub-investment-grade credit rating raises concerns from their financing partners about the assurance of payments to be made by Hawaiian Electric. As a result, we have seen developers withdraw several awarded projects as, at least in part, unfinanceable, or request, in order to pay higher financing costs, increases to their bid pricing in response to this perceived risk. Both of these outcomes result in detrimental effects to Hawaiian Electric customers.

Canceled projects will impact system reliability. Without new projects, on some

islands, there will be less generators than there are today due to mandatory retirements of some existing facilities to comply with environmental regulations. Rolling power outages on O‘ahu and Hawai‘i Island last year were attributed to unexpected outages of aging generators and insufficient battery energy storage to safely maintain power demands. New generation projects will add much needed renewable energy sources that will help maintain system reliability. If new generators are not added, outage durations could increase to multiple hours or even several days. New projects are necessary to supplement the power supply and replace older fossil fuel generators that have become less reliable over time and may need to be shut down altogether.

Additionally, new renewable energy projects are needed to help meet the State’s Renewable Portfolio Standards and greenhouse gas laws. If developers continue to withdraw their projects, or fail to bid into the Hawaiian Electric’s future procurements, the State’s renewable energy goals, such as 70% and 100% net electricity generation from renewable energy by 2040 and 2045, may be jeopardized.

This bill aims to address these risks for a limited number of developers negotiating power purchase agreements for new projects. The bill provides for the department of budget and finance to enter into a “step-in” agreement to pay those IPPs in the unlikely event that the utility defaults. The department would make those payments using specific revenues collected from utility customers, consistent with existing law under which the utility recovers 100% of the costs of power purchase agreements in retail rates. The bill explicitly states that the State’s credit and funds would not be used and that all payment obligations for the covered power purchase agreements would be paid solely from customer revenues designated to pay such power purchase agreement costs.

To ensure that sufficient funds are available, this bill also establishes a reserve account funded by a reserve fee. We estimate that a typical 500 kWh residential customer would pay between 8 and 16 cents per month for about 29 months to fund the reserve account. This cost is significantly less than the increased costs that customers would otherwise face due to Hawaiian Electric's perceived credit risk. For example, some IPPs have indicated that in the absence of a state step-in agreement, the pricing required for their projects may be 20-30% higher per month over the term of their contracts. The reserve fee will be returned to customers once the utility regains its investment-grade credit rating.

Hawaiian Electric strongly believes in the benefits that this solution can provide to customers. Based on feedback from the Attorney General's office, Hawaiian Electric would like to respectfully suggest additional improvements to this bill, as shown in the attached redline. These improvements principally seek to clarify the bill's language so as to both further minimize risk to the State and strengthen the assurance that IPPs will receive payment.

Hawaiian Electric believes that the customer benefits provided by this bill far outweigh the costs imposed. Given current conditions, Hawaiian Electric also believes that this bill offers the best solution to address developers' financing concerns.

Accordingly, Hawaiian Electric strongly supports HB 974 with proposed amendments. Thank you for this opportunity to testify.

A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that it is imperative to
2 enable the development of affordable clean energy resources for
3 the benefit of utility customers in the State. Many existing
4 generating units in ~~Hawaii~~the State will need to be retired in
5 the next few years due to obsolescence and environmental
6 permitting requirements. The impending retirement of these
7 units makes it urgent to obtain replacement resources, without
8 which the reliability of ~~electrical~~electric supplies in the
9 State will be at risk. In addition, continued reliance on
10 these aging units, even if feasible, would result in increased
11 costs for utility customers and continued reliance on fossil
12 fuels, contrary to the State's policy to transition to
13 renewable, non-carbon-emitting resources.

14 The procurement of replacement clean energy resources by a
15 certain investor-owned electric utility and its electric
16 utility subsidiaries is ongoing in its ~~stage~~Stage 3 request for
17 proposals and further anticipated in its first Integrated Grid
18 Planning request for proposals. These requests for proposals

1 ~~implement~~set forth energy plans that ~~are~~have been developed
2 through extensive engagement with local stakeholders and
3 communities and reviewed and approved by the public utilities
4 commission. The legislature finds that successful procurement
5 of clean energy resources is in the public interest of the
6 State and is necessary to avoid significant detrimental
7 reliability and affordability impacts to electric utility
8 customers.

9 The legislature also finds that the development of clean
10 energy resources by independent power producers is essential to
11 achieve the State's goals of one hundred per cent net
12 electricity sales from renewable sources by 2045, a zero
13 emissions economy by 2045, and greater energy security and
14 energy diversification, as established by the Hawaii state
15 planning act and existing public utility laws.

16 The legislature further finds that continued development
17 of clean energy resources requires adequate assurances ~~to~~
18 ~~independent power producers~~ that ~~prompt and full~~ payments for
19 purchased power will be made, ~~irrespective of~~ to independent
20 power producers as and when due by the ~~financial strength of an~~
21 ~~electric utility.~~ under power purchase agreements. The current
22 sub-investment-grade status of a certain investor-owned
23 electric utility and its subsidiaries, arising from the tragic
24 events that occurred in the 2023 Maui wildfires, has led
25 independent power producers, and those who would otherwise

1 finance renewable energy projects, to raise concerns about the
2 reliability of payment by the utility and its subsidiaries
3 under ~~new~~ power purchase agreements. procured through the Stage
4 3 and Integrated Grid Planning requests for proposals. Those
5 concerns may cause independent power producers to cancel
6 renewable energy projects or increase the prices they would
7 charge for deliveries to address this perceived credit risk.
8 Either outcome would be contrary to the interests of electric
9 utility customers in the State.

10 The legislature further finds that the public interest
11 ~~could~~would be served ~~by the~~ if the department of budget and
12 finance of the State ~~providing limited credit support through~~
13 enters into "step-in agreements, under" with independent power
14 producers, pursuant to which the ~~State~~department of budget and
15 finance will agree to make payments to ~~independent power~~
16 ~~producers in the event of a default in payment by an electric~~
17 ~~utility. These agreements can~~ the independent power producers
18 after a failure by the electric utility to make required
19 payments pursuant to the terms of power purchase agreements.
20 The department of budget and finance's obligation to make
21 payments pursuant to the terms of a step-in agreement is
22 limited solely to the revenues associated with a power purchase
23 agreement subject to a step-in agreement. Neither the full
24 faith and credit of the State, nor any other monies of the

1 State, will be pledged for any obligations under a step-in
2 agreement.

3 The legislature finds that step-in agreements may provide
4 assurances ~~to independent power producers that prompt and full~~
5 that payments for purchased power will be made. ~~to independent~~
6 power producers as and when due by the utility under the covered
7 power purchase agreements. The legislature also finds that the
8 intent of this Act is further served by appointing, authorizing,
9 and empowering the electric utility to serve as the billing,
10 collection, payment, ~~and~~ management agent of the ~~State.~~

11 ~~The legislature also finds that the State's obligations in~~
12 ~~connection with step-in agreements do not constitute contingent~~
13 ~~liabilities~~ department of the State pursuant to ~~article VII,~~
14 ~~section 13, clause 8, of the Hawaii State Constitution, because~~
15 ~~the State will be vested with all ownership of~~ budget and title
16 ~~to revenues resulting from on-bill charges for power purchase~~
17 ~~costs, and the full faith and credit of the State will not be~~
18 ~~pledged for obligations under these step-in agreements. In the~~
19 ~~event of~~ finance. Prior to a payment default by ~~an~~ the electric
20 utility ~~on its payment obligations, these revenues would cover~~
21 ~~all payment obligations of the State for electric energy and~~
22 ~~related products. In the absence of default,~~ the electric
23 utility will be authorized to utilize ~~these~~ such revenues to
24 discharge its obligations to pay independent power producers
25 for electric energy and related products. The obligations of

1 the ~~State~~department of budget and finance under this Act are
2 undertaken for a public purpose, namely, the protection of
3 public health, safety, and welfare by supporting the
4 development of clean energy resources that are needed for the
5 reliable provision of electric supply at a reasonable cost.

6 Therefore, the purpose of this Act is to:

7 (1) ~~—Allow~~ Require the ~~State~~department of budget and
8 finance to enter into a step-in ~~agreements for payment~~
9 ~~obligations arising~~agreement with an independent power producer
10 under ~~new power purchase agreements entered into between a~~
11 ~~certain investor-owned electric utility and its regulated~~
12 ~~subsidiaries~~which the department of budget and finance will
13 agree to make payments to the independent power
14 ~~producers~~producer after a failure by the electric utility to
15 make required payments pursuant to the terms of a power
16 purchase agreement;

17 (2) ~~—~~ Establish a trust fund ~~within~~outside the State
18 treasury, that shall be capitalized immediately in the event of
19 a default ~~to fulfill State-backed payment obligations arising~~
20 ~~from~~ by revenues associated with a power purchase ~~agreements~~
21 ~~subject to step-in agreements~~agreement covered by a step-in
22 agreement and revenues from a surcharge supporting a reserve
23 account, for the fulfillment of payment obligations arising
24 from the power purchase agreement;

1 (3)— Establish that revenues collected from on-bill
2 charges ~~for~~associated with covered power purchase agreements
3 and ~~accompanying reserves~~revenues from a surcharge supporting a
4 reserve account shall be held in trust by the State, and that
5 independent power producers shall hold a beneficial interest in
6 the revenues ~~and reserves~~ to the extent ~~they are~~of the amounts
7 owed to such independent power producers under the covered
8 power purchase agreements; and

9 (4)— Appoint, authorize, and empower ~~an~~the electric
10 utility to serve as the billing, collection, payment, and
11 management agent of the department of budget and finance ~~into~~
12 implement the ~~service~~requirements of ~~performing step-in~~
13 ~~agreements~~this part.

14 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
15 amended by adding a new part to be appropriately designated and
16 to read as follows:

17 "~~PART . STEP-IN AGREEMENTS COVERING~~PART. STEP-IN AGREEMENTS
18 COVERING POWER PURCHASE COSTSCOSTS

19 § ~~269-A~~ **Definitions.** As used in this part:

20 "Covered power purchase agreement" means a power purchase
21 agreement that is subject to a step-in agreement.

22 "Default" means the failure by an electric utility to pay
23 power purchase costs as and when due to an obligee under a
24 covered power purchase agreement, , after the expiration of any
25 applicable grace or cure periods and extensions thereto.

1 "Default" does not mean a bankruptcy filing by an electric
2 utility.

3 "Department" means the department of budget and finance~~7~~
4 or any successor by law.

5 "Electric utility" means a public utility that produces,
6 conveys, transmits, delivers, or furnishes electric power.

7 "Energy cost recovery clause" means the provision, or
8 other equivalent, in an electric utility's rate schedules that
9 allows the electric utility to recover its costs of fuel,
10 expenses, and related taxes~~,~~ for energy costs of power
11 purchased under a power purchase agreement.

12 "Fund" means the power purchase costs trust fund
13 established pursuant to section 269-D.

14 "Investment grade status" means a credit rating for the
15 electric utility's senior unsecured long-term debt obligations
16 or an ~~issued~~issuer credit rating for the electric utility (in
17 each case, ~~not supported by~~without regard for gradation within a
18 rating category and without regard for third~~-~~party credit
19 enhancements) from at least two out of ~~the~~-three of the
20 following:

21 (1) ~~At least~~ BBB- or higher ~~from~~for S&P Global Ratings, or
22 any successor by law;

23 (2) ~~At least BAA3~~ Baa3 or higher ~~from~~by Moody's Investor
24 Services, Inc., or any successor by law; or

1 (3) ~~At least~~ BBB- or higher ~~from~~by Fitch Ratings, Inc.,
2 or any successor by law.

3 “Obligee” means any user, owner, or operator of the Hawaii
4 electric system that is owed payment of power purchase costs by
5 the electric utility under a power purchase agreement.

6 “Power purchase agreement” means a contract between an
7 electric utility and a user, owner, or operator of the Hawaii
8 electric system, approved by the public utilities commission,
9 pursuant to which the electric utility agrees to purchase, and
10 the user, owner, or operator of the Hawaii electric system
11 agrees to sell, electric energy and related products produced
12 by plants or facilities that have not provided, sold, or
13 transmitted electricity to the electric utility before July 1,
14 2025.

15 “Power purchase charges” means the on-bill charges,
16 excluding the reserve fee, authorized by the public utilities
17 commission to be imposed on and collected from all existing and
18 future customers of an electric utility or any successor for
19 power purchase costs, including without limitation the energy
20 cost recovery clause and the purchased power adjustment clause.

21 ~~“Power purchase charges” do not include any amounts for state~~
22 ~~and county revenue taxes, including any franchise tax, public~~
23 ~~service company tax, and public utility commission fee.~~

24 “Power purchase costs” means costs incurred by an electric
25 utility pursuant to the terms of a power purchase agreement.

1 "Power purchase costs" include, without limitation, all
2 categories of costs recoverable under the energy cost recovery
3 clause and the purchased power adjustment clause under ~~its~~their
4 respective tariffs in effect on July 1, 2025.

5 "Purchased power adjustment clause" means the provision,
6 or other equivalent, in an electric utility's rate schedules
7 that allows the electric utility to recover expenses and
8 related taxes for non-energy costs of power purchased under a
9 power purchase agreement.

10 "Reserve fee" means the power purchase costs reserve fee
11 described in section 269-E(a).

12 "Revenue" means moneys from power purchase charges and the
13 reserve fee net of any applicable taxes or government fees,
14 including without limitation, the Franchise Tax, Public Service
15 Company Tax, and Public Utility Commission Fee.

16 "Step-in agreement" means a contract by which the
17 ~~State~~department undertakes ~~an~~the obligation of ~~prompt and full~~
18 payment for power purchase costs owed to an obligee as and when
19 due by an electric utility under a power purchase agreement,
20 following a default, as described in section 269-B(a), provided
21 that the department's payment obligation under such step-in
22 agreement is limited solely to the revenues from power purchase
23 charges and the reserve fee collected in connection with the
24 power purchase agreement.

1 "User, owner, or operator of the Hawaii electric
2 ~~system~~'system" has the same meaning as defined in section
3 ~~269~~296-141.

4 **§ 269-B Step-in agreements**.

5 (a) The department shall enter into a step-in agreement
6 with an obligee that requires the department to make ~~prompt and~~
7 ~~full~~ payments for power purchase costs owed by an electric
8 utility to the obligee in the event of a default. ~~Upon~~ Pursuant
9 to such step-in agreement and upon the default, the department
10 shall make payments to the obligee for power purchase costs
11 with moneys from the fund as and when due by the electric
12 utility under the covered power purchase agreement. ~~The,~~
13 provided however that any such step-in agreement shall ~~not be~~
14 an provide that the department's payment obligation ~~for~~
15 ~~which~~ thereunder shall be solely limited to the revenues from
16 power purchase charges and the reserve fee collected in
17 connection with the covered power purchase agreement. Each
18 step-in agreement shall include a clause stating that neither
19 the full faith and credit of the State ~~is~~ nor any other monies
20 of the State will be pledged, ~~and an~~ for any obligations
21 pursuant to the terms of the Step-in Agreement. An obligee of
22 a covered power purchase agreement shall have no claim or lien
23 on any ~~revenues or~~ moneys of the State, except for those
24 revenues from the power purchase charges and the reserve fee
25 attributable to the covered power purchase agreement.

1 **(b)**— ~~The~~ department shall enter into a step-in agreement
2 only if the power purchase agreement subject to the step-in
3 agreement arises from the ~~stage~~Stage 3 request for proposals
4 under ~~docket number~~Docket Number 2017-0352 before the public
5 utilities commission, or the first ~~integrated grid~~
6 ~~planning~~Integrated Grid Planning request for proposals issued
7 under ~~docket number~~Docket Number 2024-0258 before the public
8 utilities commission. ~~The~~ department shall enter into a step-
9 in agreement when the power purchase agreement subject to the
10 step-in agreement is executed, or if the power purchase
11 agreement has already been executed as of July 1, 2025, as soon
12 as reasonably possible.

13 ~~(c)~~ ~~Payment by~~ **(c)** The payment obligation of the
14 department under a step-in agreement shall commence not later
15 than two days after the date of a notice from the department to
16 the electric utility pursuant to section 269-C(a).

17 **(d)**— ~~The~~ step-in agreement shall terminate when the
18 credit rating of the electric utility or its successor achieves
19 investment grade status or by express agreement of the obligee,
20 the department, and the electric utility. Upon termination of
21 a step-in agreement, the department shall have no obligations
22 to the electric utility or the obligee upon a default by the
23 electric utility.

24 **(e)**— ~~Following~~ a default of a covered power purchase
25 agreement and any payment by the department, the electric

1 utility, within its sole discretion, may elect to resume
2 payments for power purchase costs owed by the electric utility,
3 regardless of the credit rating of the electric utility at that
4 time, in which case the electric utility ~~may use the revenue~~
5 ~~from power purchase charges as specified~~ shall cease to turn
6 over revenues from power purchase charges and the reserve fee
7 collected in connection with the covered power purchase
8 agreement to the power purchase costs fund as described in
9 section 269-C(a), and may use the revenues from power purchase
10 charges and the reserve fee through the vesting of title in the
11 electric utility as described in subsection (h); provided that
12 the payments shall not terminate the step-in agreement, which
13 shall remain in effect until terminated pursuant to subsection
14 (d), and the department shall remain obligated to pay the
15 obligee upon a subsequent ~~payment~~-default by the electric
16 utility.

17 (f) — The department may impose other conditions, and may
18 include other terms, in a step-in agreement that it deems
19 necessary to implement the requirements of this part; provided
20 that the conditions and terms shall not be inconsistent with
21 the covered power purchase agreement.

22 (g) — As consideration for the State entering into the
23 step-in agreement, the electric utility or its successor shall
24 enter into an agreement to assign and transfer ~~any ownership in~~
25 ~~and~~-title to the ~~revenue~~ revenues from power purchase charges

1 and the reserve fee attributable to the covered power purchase
2 agreement to the department, ~~and, under the agreement, the~~
3 ~~department shall be deemed~~ to be ~~the sole holder~~ held in trust
4 ~~of all ownership and title to the revenue~~ for the benefit of
5 the obligees under the covered power purchase agreements to the
6 extent of the ~~obliges are~~ amounts owed to such obligees. The
7 revenues shall not be subject to appropriation for any other
8 purpose. The revenues shall be exempt from the requirements of
9 chapters 36 and 38. The electric utility or its successor
10 shall be and remain at all times, even upon the occurrence and
11 during the continuance of a default by the electric utility or
12 its successor, obligated to bill and collect the power purchase
13 charges and reserve fee and to manage the associated revenues
14 as an agent for the department to effectuate the purposes of
15 this section.

16 ~~The revenue shall not be subject to appropriation for any~~
17 ~~other purpose. The revenue, if held in a depository other than~~
18 ~~the state treasury, shall be exempt from the requirements of~~
19 ~~chapters 36 and 38. The electric utility or its successor shall~~
20 ~~be obligated to bill and collect the power purchase charges and~~
21 ~~to manage the revenue attributable to the agreement as an agent~~
22 ~~for the department.~~

23 **(h)** — If any payment obligation of the electric utility
24 under a covered power purchase agreement for power purchase
25 costs becomes owed and due, any ~~ownership of or~~ title held by

1 the department in trust to the ~~revenue~~revenues from power
2 purchase charges and the reserve fee for the payment obligation
3 owed and due shall divest from the department and vest in the
4 electric utility or its successor at the time the payment by
5 the electric utility or its successor is made to the obligee.
6 Any vesting of revenues to the electric utility ~~when~~at the time
7 of payment ~~obligations are owed and due~~ may be made without
8 appropriation or allotment by the legislature. The department
9 may not ~~otherwise~~otherwise assign, sell, or transfer any
10 ~~ownership of, or~~ title to, or any claim or right to, the
11 ~~revenue~~revenues from power purchase charges or the reserve fee.

12 (i) — To meet the requirements of the State and the public
13 utilities commission as ~~it pertains~~they pertain to electric
14 reliability, energy security, and energy diversification under
15 this chapter and any rules adopted pursuant thereto, ~~an~~the
16 electric utility shall ensure that it maintains sufficient
17 availability of electric energy and related products, to the
18 extent provided by an obligee in accordance with a covered
19 power purchase agreement. The ~~department~~public utilities
20 commission shall exercise its regulatory powers to ensure that
21 ~~an~~the electric utility complies with its obligations under the
22 covered power purchase ~~agreements~~agreement.

23 (j) — Notwithstanding any other law to the contrary, ~~an~~the
24 electric utility shall file with the public utilities
25 commission, and the public utilities commission shall allow to

1 become effective, monthly rate adjustments provided under the
2 energy cost recovery clause and purchased power adjustment
3 clause to establish or adjust power purchase charges in a
4 manner designed to:

5 (1) — ~~Generate sufficient revenue~~revenues to timely and
6 fully pay amounts when owed and due under covered power
7 purchase agreements; and

8 (2) — ~~Ensure that in no event shall revenues fall below~~
9 the amounts owed and due under covered power purchase
10 agreements by a sum that exceeds the amounts in the
11 reserve established under section 269-E~~;~~ and

12 (3) Recover any applicable taxes and government fees and
13 any incremental administrative costs of the utility or the
14 department incurred to implement the requirements of this
15 part.

16 To achieve the objectives established pursuant to this
17 subsection, unless the public utilities commission otherwise
18 directs, the electric utility may retain ~~revenue~~revenues
19 collected in excess of amounts owed and due under the covered
20 power purchase ~~agreement.~~agreements. The obligations of the
21 electric utility and of the public utilities commission under
22 this section shall survive any default by the electric utility
23 and shall terminate only upon the termination of the step-in
24 agreement as provided in subsection (d).

1 **(k)**— If the electric utility fails to timely file any
2 submission as described in subsection (j), the department shall
3 promptly file, and the public utilities commission shall allow
4 to become effective, a substitute submission as if the
5 submission had been filed by the electric utility under
6 subsection (j). The electric utility shall implement the power
7 purchase charges in the substitute submission from the
8 department.

9 **§ 269-C Default of electric utility; successor**
10 **requirements—**

11 **(a)** If the obligee provides notice to the department of a
12 default of a covered power purchase agreement, the department
13 shall provide the electric utility notice of the default. Two
14 days after the electric utility receives the notice, the
15 electric utility shall turn over all revenues from the power
16 purchase charges and reserve fee arising from any covered power
17 purchase agreements identified in the notice, regardless of
18 when collected, then in its possession, and, subject to section
19 269-B(e), all future revenues from the power purchase charges
20 and reserve fee thereafter collected, to the fund ~~as directed~~
21 ~~by the department; provided that the~~ established pursuant to
22 section 269-D(a). The amounts referenced in the prior sentence
23 shall include all revenues received by the electric utility
24 after a default for such power purchase charges and reserve fee
25 billed before the default ~~that were intended to be used to pay~~

1 ~~power purchase costs arising from the covered power purchase~~
2 ~~agreement.~~ The department shall use the ~~revenue~~revenues
3 collected from the power purchase charges and reserve fee,
4 including the revenues turned over, only in the order as
5 follows:

6 (1) — To pay power purchase costs pursuant to a step-in
7 agreement, subject to the appointment, authorization, and
8 empowerment of the electric utility as an agent as
9 described in section 269-F(e); and,

10 ~~(2) To implement a rate credit to customers~~ for
11 ~~revenue~~revenues in excess of amounts owed under the covered
12 power purchase agreement.

13 (2) To recover any incremental administrative costs of the
14 utility or the department incurred to implement the
15 requirements of this part; and

16 (3) To implement a rate credit to customers.

17 (b) — Any step-in agreement shall remain in full force and
18 effect notwithstanding any bankruptcy, reorganization, or other
19 insolvency proceedings with respect to the electric utility.

20 (c) — The obligation of ~~an~~the electric utility to collect
21 and remit the revenues from power purchase charges and the
22 reserve fee pursuant to the requirements of this part, shall
23 not be subject to any setoff, counterclaim, surcharge, or
24 defense by the electric utility, or in connection with a
25 bankruptcy of any electric utility.

1 (d) — Any successor to an electric utility shall be bound
2 by the requirements of this part. The successor shall perform
3 and satisfy all obligations of the electric utility, in the
4 same manner and to the same extent as the electric utility,
5 including the obligation upon default to bill and collect the
6 power purchase charges and reserve fee and remit to the fund
7 the revenues collected ~~revenue to the department~~ in connection
8 with any covered power purchase agreement, unless and until the
9 step-in agreement is terminated as described in section ~~269-~~
10 B(d).

11 (e) — If the ~~credit rating of the electric utility or its~~
12 ~~successor achieves investment grade status,~~ step-in agreement is
13 terminated as described in section 269-B(d), then by operation
14 of law, any ~~ownership of and~~ title to the ~~revenue~~ revenues from
15 power purchase charges and the reserve fee attributable to the
16 covered power purchase agreement shall immediately ~~divest from~~
17 ~~the department and vest in the electric utility or its~~
18 ~~successor; provided that~~ cease to be held in trust and the
19 electric utility or its successor shall thereafter be the sole
20 ~~owner and~~ holder of title or beneficial and equitable interest
21 in, and any claim or right to, the revenue, and the obligation
22 of the electric utility or its successor to bill and collect
23 the power purchase charges and the reserve fee, manage the
24 ~~revenue~~ revenues as an agent for the department, and, if

1 applicable, to remit the collected ~~revenue~~revenues to the fund,
2 shall terminate.

3 **§ 269-D Power purchase costs trust fund.**

4 (a) There is established ~~in~~outside the state treasury ~~the~~a
5 power purchase costs trust fund to be administered by the
6 department into which ~~shall be deposited~~ all ~~proceeds of the~~
7 revenues from power purchase charges ~~to be paid~~ and the reserve
8 fee collected in connection with a covered power purchase
9 agreement shall be deposited in the event of a default of ~~a~~the
10 covered power purchase agreement by the electric utility.

11 (b) ~~—~~ Moneys in the fund shall be ~~administered and~~ held by
12 the department in trust for the benefit of obligees of covered
13 power purchase agreements to the extent ~~the obligees are owed~~of
14 the amounts owed to such obligees. The department's payments
15 from the fund shall be made without appropriation or allotment
16 as provided in section 37-40.

17 (c) ~~—~~ If the ~~credit rating of the electric utility or its~~
18 ~~successor achieves investment grade status,~~step-in agreement is
19 terminated as described in section 269-B(d), the fund shall
20 cease to receive any ~~revenue~~revenues from the power purchase
21 charges collected by ~~that~~the electric utility or its successor
22 and shall pay to the electric utility or its successor the
23 remainder of any moneys in the fund; ~~provided that the.~~ Those
24 moneys ~~in the fund~~ shall be considered ~~revenue~~revenues of the
25 electric utility or its successor.

1 § ~~269-E Power purchase costs~~ Establishment of a reserve

2 ~~fee~~ account; establishment. ~~(a) By August 1, 2025~~

3 (a) Within thirty days of the effective date of this Act,

4 the public utilities commission shall authorize a surcharge

5 proposed by an electric utility, referred to as the power

6 purchase costs reserve fee, ~~the revenue from which shall be~~

7 ~~accorded the same treatment as revenue from power purchase~~

8 ~~charges as described in section 269-B(g). The power purchase~~

9 ~~costs.~~ The reserve fee may be included in the purchased power

10 adjustment clause on customer bills. The electric utility

11 shall establish and maintain a separate account to accept and

12 account for the revenues from the reserve fee.

13 **(b)** ~~—~~ The ~~power purchase costs~~ reserve fee shall be

14 collected and maintained to establish a reserve account in an

15 amount not to exceed (1) fifteen per cent of the forecasted

16 monthly power purchase costs of all covered power purchase

17 agreements. plus (2) an amount sufficient to recover costs

18 related to maintenance of the reserve account and any

19 applicable taxes and fees.

20 **(c)** ~~—~~ ~~In the event of default pursuant to section 269-C(a),~~

21 ~~all previously collected revenues and all future revenues from~~

22 ~~the power purchase costs reserve fee shall be accorded the same~~

23 ~~treatment as revenues from power purchase charges as described~~

24 ~~in section 269-C.~~

1 ~~(d) Notwithstanding subsection (c), if the credit rating~~
2 ~~of the electric utility or its successor achieves investment~~
3 ~~grade status and~~ If the step-in agreement terminates pursuant
4 to section 269-B(d), all the reserve fee shall cease to be
5 collected, and all moneys remaining in the reserve collected
6 from the ~~power purchase costs~~ reserve fee shall be returned,
7 together with any associated interest earned, to customers
8 through a rate credit.

9 ~~(e)~~ d In the special circumstances of this part, the
10 legislature finds and declares that the reasonable reserve
11 requirement of article VII, section 13, clause 8 of the Hawaii
12 State Constitution, to the extent applicable, has been
13 satisfied.

14 **§ 269-F Electric utility; as agent of the department.**

15 ~~(a)~~ To implement the requirements of this part, the
16 department may contract with an electric utility or its
17 successor to act as an agent of the department to provide
18 billing, collection, payment, management, and other related
19 services ~~on terms and conditions that reasonably compensate the~~
20 ~~electric utility or its successor for its incremental cost to~~
21 ~~provide services, and adequately secure payment to the~~
22 ~~department.~~

23 ~~(b)~~ At the request of the department, the public
24 utilities commission shall order an electric utility or its

1 successor to perform the duties pursuant to a contract under
2 subsection (a).

3 (c) — The act of serving as an agent to bill and to
4 collect the power purchase charges and the reserve fee shall
5 not cause any electric utility to be subject to the laws that
6 regulate financial institutions, escrow depositories, or
7 collection agencies. An electric utility shall not be
8 responsible for lending, underwriting, and credit
9 determinations in respect to these billing and collection
10 activities.

11 (d) — To the extent any ~~moneys~~revenues are received by an
12 electric utility pursuant to subsection (a) ~~or section 269-~~
13 ~~B(g)~~, in the process of collection, and pending their transfer
14 to the ~~department,~~ fund pursuant to section 269-D(a), those
15 moneys necessary to timely and fully pay amounts when owed and
16 due under covered power purchase agreements shall be held in
17 trust for the department's exercise of its obligations pursuant
18 to this part.

19 (e) — To implement the requirements of this part, the
20 director of finance may appoint, authorize, and empower the
21 electric utility, as agent for and on behalf of the State, to
22 manage and pay out moneys, including from the fund, for
23 fulfillment of payment obligations of the State arising from ~~-~~
24 covered power purchase agreements. The appointment shall
25 terminate when the step-in agreement ~~for the covered power~~

1 ~~purchase agreements terminates pursuant to~~ is terminated as
2 described in section 269-B(d)."

3 SECTION 3.— If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the
8 provisions of this Act are severable.

9 SECTION 4. —In codifying the new sections added by section
10 2 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 5. —This Act shall take effect upon its approval.
14

H.B. NO. 974

Report Title:

BNF; Public Utilities Commission; Energy; Step-In Agreements;
Power Purchase Agreements; Power Purchasing Costs Trust Fund

Description:

Allows the State to enter into step-in agreements for payment obligations arising under certain power purchase agreements. Establishes the Power ~~Purchasing~~Purchase Costs Trust Fund. Establishes that revenues from on-bill charges for power purchase agreements and ~~accompanying reserves~~ a reserve surcharge shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the ~~revenue and reserve~~revenues to the extent of the amounts owed under the covered power purchase agreements. Appoints, authorizes, and empowers an electric utility to serve as the billing, collection, payment, and managing agent of the Department of Budget and Finance in the service of performing step-in agreements.

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



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San Francisco, CA 94105
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pluspower.com

Representative Nicole Lowen, Chair
Representative Amy Perruso, Vice Chair
Committee on Energy & Environmental Protection

January 30, 2024; 9:00 a.m.
Conference room 325 & Videoconference

RE: HB 974 Relating to Energy – In Support

Aloha Chair Lowen, Vice Chair Perruso and members of the Committee:

Plus Power appreciates this opportunity to submit testimony in support of HB 974, which allows the State to enter into step-in agreements for payment obligations arising under certain power purchase agreements and establishes the Power Purchasing Costs Trust Fund.

There is a need to replace retiring fossil fuel units. HB 974 is necessary to procure affordable clean energy resources to replace these units and stabilize the grid.

The Plus Power team is accelerating the deployment of transmission-connected battery energy storage throughout the United States. Plus Power develops, owns, and operates standalone battery energy storage systems that provide capacity, energy, and ancillary services, enabling the rapid integration of renewable generation resources. We now have 7 operating projects, with 1 in Hawaii, 4 in Texas, 2 in Arizona, and 2 more coming online this year in Maine and Massachusetts, totaling over 4000 MWh. Behind those, we have 10 GW of projects in 28 U.S. states and Canada in development.

We ask your favorable consideration in passing this measure.

Brian Duncan
Senior Vice President, Origination & Commercial
Plus Power



TESTIMONY TO THE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

9:00 AM, January 30, 2025

Conference Room 325 & Via Videoconference

HB 974

Chair Lowen, Vice Chair Perruso and Members of the Committee,

Hawaii Clean Power Alliance (HCPA) strongly **supports** HB 974, which allows the State to enter into step-in agreements for payment obligations arising under certain power purchase agreements. Establishes the Power Purchasing Costs Trust Fund. Establishes that revenues from on-bill charges for power purchase agreements and accompanying reserves shall be held in trust by the State, and that independent power producers shall hold a beneficial interest in the revenue and reserve to the extent of the amounts owed under the covered power purchase agreements. Appoints, authorizes, and empowers an electric utility to serve as the billing, collection, payment, and managing agent of the Department of Budget and Finance in the service of performing step-in agreements.

Hawaii Clean Power Alliance is a nonprofit alliance organized to advance and sustain the development of clean energy in Hawaii. Our goal is to support the state's policy goal of 100 percent renewable energy by 2045. We advocate for utility-scale renewable energy, which is critical to meeting the state's clean energy and carbon reduction goals.

The legislature has recognized that reliable and affordable energy is fundamental to the public interest. HB 974 acknowledges the challenges facing renewable energy producers, particularly in light of the recent financial instability of Hawaii's investor-owned electric utility. Multiple recently awarded independent renewable projects have terminated for this reason. Obtaining financing has become extremely challenging due to the uncertainty caused by the utility's financial rating. HB974 is required to create a framework to add certainty to the project being able to meet its debt obligations.

HB 974 will help to mitigate more terminations by IPPs due to the inability to obtain financing of projects, which will enable more reliable and less expensive energy.

We urge the Committee to pass HB 974 to achieve the State's clean energy goals while protecting the interests of its residents.

Thank you for the opportunity to testify.

House Bill 974 – Relating to Renewable Energy
TESTIMONY

Hawai'i State House of Representatives
House Committee on Energy and Environmental Protection
Thursday, January 30, 2025
9:00 a.m.

Aloha Chair Lowen, Vice Chair Perruso and Members of the House Committee on Energy and Environmental Protection,

Mahalo for the opportunity to provide testimony in **support of HB 974, relating to renewable energy**. AES is Hawai'i's largest renewable energy provider. We share the state's vision for a 100% renewable energy future to enhance energy resilience, decarbonization, and promote energy equity. We are working to accelerate and support Hawai'i's transition toward a carbon-free energy future with renewable projects across the Hawaiian Islands totaling over 405 MW of solar, solar plus storage, and wind resources in operation or under contract, with 102.5 MW of Stage 1 projects, 37 MW of Stage 2 projects, and 126 MW of Stage 3 projects.

The purpose of HB 974 is to mitigate the impact of HECO's current non-investment grade status on the financing for renewable energy projects developed by Independent Power Producers ("IPPs").

IPPs rely on lenders and investors to finance utility-scale renewable energy projects under Power Purchase Agreements (PPAs) with HECO. Achieving the lowest PPA rates for these projects requires a PPA customer (HECO) with an investment grade credit rating. Given HECO's current non-investment grade status, it is imperative to AES Hawai'i and all IPPs that PPA's with HECO for utility-scale renewable energy projects are backed by the State via the proposed step-in agreements and do not present a default risk. This ensures IPPs can procure the best possible financing terms for renewable projects under HECO's Stage 3 and IGP RFP.

If financing is not available, is limited or is extremely expensive for IPPs, this would result in project cancellations or major price increases from market PPA rates and would significantly delay the State's transition to 100% renewable energy and potentially raise consumer energy prices. It is important to note this bill will not burden ratepayers and is solely designed to ensure renewable energy projects with HECO in Hawai'i remain viable through financing.

AES Hawai'i submits the following amendments for consideration, which we believe will enhance financing opportunities and mitigate increased financing costs for renewable energy projects:

1. **Section 269-182(a)**: Amend to provide better protection to IPPs regarding termination payments and damage claims. The statute should clearly state that if the Power Purchase Agreement ("PPA") is terminated by HECO during bankruptcy, the step-in agreement will obligate the department to make payments under PPAs as if the PPA is

still in effect or pay the IPP's damage claim arising from such termination. Additionally, if the PPA provides for payment of a termination payment after a HECO default, the

statute should expressly provide that any termination payment due under the PPA is covered by the step-in agreement.

2. **Section 269-182(g)**: Amend to clarify that it is unnecessary for the title of revenues to transfer to HECO after a HECO default. The State would already be obligated under the step-in agreement to make power purchase payments to IPPs after a HECO default, eliminating the need to transfer title of the revenues to HECO post-default.
3. **Section 269-182(f)**: Amend to specify that other terms and conditions imposed under the step-in agreement will not impede full and prompt payment of obligations under the agreement. We propose the following amendment:

The department may impose other conditions, and may include other terms, in a step-in agreement that the department deems necessary to implement the requirements of this part, provided that such conditions and terms shall not adversely affect the obligation of the department to make prompt and full payments for power purchase costs owed by an electric utility to the obligee in the event of a default as required by Section 269-182(a) or otherwise be inconsistent with the covered power purchase agreement.

Thank you again for your time and consideration. AES Hawai'i supports this measure, to ensure the financial viability of our renewable energy projects and to ensure Hawai'i can achieve ambitious renewable energy goals embedded in our state energy policy.

Mahalo for your consideration.



Sandra Larsen
President
AES Hawai'i

Clearway Energy Group
100 California St, Suite 650
San Francisco, CA 94111



January 29, 2025

Via Electronic Submittal

Committee on Energy & Environmental Protection
Representative Nicole E. Lowen, Chair
Representative Amy A. Perruso, Vice Chair

Thursday, January 30, 2025, 9:00 a.m.
Conference Room 325 & Videoconference

RE: HB 974 – Relating to Energy - In Support

Aloha Chair Lowen, Vice Chair Perruso, and members of the Committee:

Clearway Energy Group LLC (“Clearway”) supports HB 974, which allows the State to enter into step-in agreements to ensure continuity of payments under certain power purchase agreements.

Clearway is one of the largest suppliers of renewable energy to Hawaiian Electric and its customers. Clearway owns and operates four solar energy projects on Oahu and has three additional projects under development that were awarded in Hawaiian Electric’s Stage 3 Renewable RFP. Our projects provide clean, reliable power to Hawaiian Electric’s customers at a fixed price and at a lower cost than electricity from fossil fuel sources.

Hawai’i has an urgent need to add affordable, clean energy generation and storage resources to stabilize the grid and replace aging fossil fuel power plants. To make this possible, the State needs to act to restore the financeability of power purchase agreements with Hawaiian Electric. In October 2024, Clearway and Hawaiian Electric made the difficult decision to end the current round of contract negotiations for the projects originally awarded in the Stage 3 RFP. Because of the utility’s financial distress and change in credit since the Maui wildfires, Clearway has determined that it is currently not possible to secure financing at a reasonable cost for projects relying on revenue from Hawaiian Electric. Financing is a significant component of the cost of new electricity

generation and storage resources, so if this problem is not resolved, it will increase costs for all ratepayers.

Clearway appreciates that HB 974 is intended to solve this problem by using the State's authority to ensure that the flow of payments due under power purchase agreements will continue uninterrupted, even in the case of a bankruptcy filing or other significant financial disruption to the utility. The details of this mechanism are important, and we are still reviewing aspects of the proposal to assess how it would affect project financing. We look forward to continued discussion on this measure.

Thank you for the opportunity to testify on this matter.

Nicola Park
Director, Hawaii
Clearway Energy Group



January 30, 2025

Representative Lowen, Chair
House Committee on Energy and Environmental Protection

RE: HB 974 – Relating to Energy – In Support

Aloha Chair Lowen and members of the Committee,

My name is Wren Wescoatt, Vice President of Development for Longroad Energy (Longroad), and I am testifying in support of HB 974. This bill provides critical support to enable the financing of new renewable energy projects in Hawaii and lower the price of energy for ratepayers.

I have been developing clean energy in Hawai'i for the past 17 years for Longroad and First Wind. Together, our team has developed about half of the utility-scale wind and solar capacity operating in Hawaii today and financed more than \$500 million for construction of local projects – all of which have power contracts with Hawaiian Electric Company (HECO). Hawai'i has been making steady progress toward 100% renewable electricity, but with HECO's current credit rating below investment grade since the Maui fires, it is difficult for energy producers like Longroad to secure financing to fund future solar projects. If HECO is below investment grade, then either the cost to finance the projects will be higher because lenders are taking on more risk – or the State of Hawai'i needs to guaranty the power contracts somehow. This will give banks loaning money to build projects the assurance that the contract is backed by an investment-grade counterparty.

The current bill allows the State to step in and facilitate payments on future HECO power contracts. While this is not as strong as a full guaranty by the State, having the State serve as trustee for payments will give lenders a higher degree of confidence and should enable them to reduce the cost of borrowing. This would decrease the price of energy from solar projects, which is directly passed through to Hawaii's ratepayers.

We support HB 974 and ask that you give the measure your favorable consideration.

Mahalo,

A handwritten signature in black ink, appearing to read "Wren W. Wescoatt", written in a cursive style.

Wren W. Wescoatt
Vice President of Development
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808-780-1000