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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Tuesday, February 11, 2025
2:00 p.m.
Conference Room 329**

**On the following measure:
H.B. 978, 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 supports this bill.

The purpose of this bill is to provide the Public Utilities Commission (Commission) the authority to appoint a receiver to take temporary action necessary to assure continued adequate electric services from regulated investor-owned electric utilities.

The Department first notes that this bill would not amend the high standard for the Commission to appoint a receiver: "the failure [of the utility in question] is a serious and imminent threat to health, safety, and welfare". The Department sees utility receivership as a critical tool for protecting utility customers in the most extreme circumstances, but only in the most extreme circumstances. Therefore, the Department supports affording the Commission this option for electric utilities. Electric service is critical for daily life for everyone in the State. And the permanent loss of electricity – in such an extreme scenario

as, for example, a complete company collapse, however unlikely – could endanger everything from public safety infrastructure to personal health equipment. Finally, because receivership can only be invoked in circumstances extreme enough to meet this very high standard, it should be seen as just a final backstop or safety net, highly unlikely to affect the usual business and service fluctuations of electric utilities.

Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
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Testimony of the Public Utilities Commission

To the
House Committee on
Consumer Protection & Commerce

February 11, 2025
2:00 p.m.

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

Measure: H.B. No. 978, 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 ensure continuity in electric services in the event of imminent threats to utility operations.

At present, the Commission has express authority under HRS §269-14.5 to appoint a receiver to take temporary actions on behalf of a regulated water or sewer utility when the continuity or quality of operations are in jeopardy. This necessarily provides the Commission with an additional tool that may be utilized when the health, safety, and welfare of consumers of water and wastewater services are in jeopardy. However, no such authority is extended to the Commission for other types of regulated entities.

Pursuant to HRS §269-7.5, every public utility as defined in HRS §269-1 must apply for and obtain a certificate of public convenience and necessity ("CPCN") prior to commencing its operations. The application requires information such as the type of work being performed, the geographic scope of operations, and a statement proving financial ability to render such services. If the entity is later found to be unable, unwilling, or unfit to adequately perform said services, the Commission may suspend, amend, or revoke the CPCN. However, in these unusual cases, the Commission would not be able to ensure continued service in the interim via the appointment of a receiver for electric or gas utilities.

Given that electricity is an essential service intertwined with public health, safety, welfare, and economic viability, the Commission appreciates the bill's intent to safeguard against potential financial threat to the state's investor-owned electric utility.

Thank you for the opportunity to testify on this measure.



**Testimony to The Committee on Consumer Protection & Commerce
Tuesday February 11, 2025
2:00 PM
Conference Room 329 & VIA videoconference
Hawaii State Capitol
HB 978 HD1**

The intent of HB 978 HD1 is to amend HRS §269-14.5 to broaden the PUC's authority to appoint a receiver to take temporary actions on behalf of regulated electric utility.

Noting the title, Relating to Electric Utilities, Hawaii Gas appreciates the question as to how this bill would apply to other utilities.

There are characteristics of Hawaii Gas' business that will create complexities for effectuating the intent of this measure on the gas utility.

First, Hawaii Gas has combined regulated and unregulated business segments that are operated under one legal entity. While the Commission has jurisdiction over its regulated business segment, it does not have jurisdiction over its unregulated business segment. Because both business segments are operated as one legal entity the Commission would not have authority over assets necessary for continued service if Hawaii Gas was deemed unable, unwilling, or unfit to adequately perform gas service Hawaii Gas' lenders would have control over the use and disposition of the unregulated assets.

Second, unlike small water and waste utilities, large utilities like Hawaii Gas typically have multiple senior credit facilities that are secured by the assets of the utility. These credit facilities have financial debt covenants that must be met. If the financial condition of the utility deteriorates below certain levels it will constitute a default under the loan documents and give rise to expansive lender remedies that likely will conflict with this proposed measure.

Thank you for the opportunity to testify on this measure.