ACT 37

S.B. NO. 120

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that electricity rates in the State are at record levels, due in large part to the high cost of petroleum used to fuel electric generation plants on all islands. In addition, electric utility operating expenses have substantially increased in recent years while electric sales have declined. The consequences of those circumstances have led to further electricity rate increases. Electric ratepayers are demanding immediate relief from increasing electricity rates. It is therefore imperative that Hawaii's electric utilities accelerate their efforts to acquire lower cost clean energy resources and reduce existing energy and other utility operating expenses.

The legislature further finds that as the electric utility business model evolves, existing regulatory cost recovery mechanisms neither provide sufficient economic incentives to induce electric utilities to reduce energy and operating costs nor financially reward them if these cost reductions are self-initiated and substantial. For example, energy costs are recovered from customers through the energy cost adjustment clause, which is a direct cost recovery pass through mechanism, without the ability for electric utilities to earn a profit or a mark-up on energy cost recovery. Therefore, electric utilities are not incentivized to aggressively reduce energy costs or seek lower cost alternatives or efficiency gains.

The legislature additionally finds that the current electric ratemaking process employs a single authorized rate of return that is applied equally to all utility plant investments. This methodology does not differentiate between plant investments to modernize the electric grid, which should be encouraged, and investments to preserve old, inefficient fossil generation, which should be discouraged. Retiring old, inefficient utility fossil generation acts as a financial disincentive for electric utilities because the electric utilities can only earn a return on plant investment that is actually used and useful to provide utility service. The early retirement of utility fossil generation may create costs that are stranded and cannot be recovered from ratepayers. The continued operation of old, inefficient utility fossil generation therefore preserves existing utility financial returns.

The legislature concludes that it is necessary for the public utilities commission to consider and implement economic incentive mechanisms, where appropriate, to induce electric utility actions to reduce energy cost and operating expenses and to enable the maximum integration of lower cost renewable energy resources.

The purpose of this Act is to authorize the public utilities commission to establish a policy to implement economic incentives and cost recovery regulatory mechanisms, as necessary and appropriate, to induce and accelerate electric utilities' cost reduction efforts, encourage greater utilization of renewable energy, accelerate the retirement of utility fossil generation, and increase investments to modernize the State's electrical grids.

SECTION 2. Section 269-6, Hawaii Revised Statutes, is amended to read as follows:

"**§269-6 General powers and duties.** (a) The public utilities commission shall have the general supervision hereinafter set forth over all public utilities, and shall perform the duties and exercise the powers imposed or conferred upon it by this chapter. Included among the general powers of the commission is the authority to adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

(b) The public utilities commission shall consider the need to reduce the State's reliance on fossil fuels through energy efficiency and increased renewable energy generation in exercising its authority and duties under this chapter. In making determinations of the reasonableness of the costs of utility system capital improvements and operations, the commission shall explicitly consider, quantitatively or qualitatively, the effect of the State's reliance on fossil fuels on price volatility, export of funds for fuel imports, fuel supply reliability risk, and greenhouse gas emissions. The commission may determine that short-term costs or direct costs that are higher than alternatives relying more heavily on fossil fuels are reasonable, considering the impacts resulting from the use of fossil fuels.

(c) In exercising its authority and duties under this chapter, the public utilities commission shall consider the costs and benefits of a diverse fossil fuel portfolio and of maximizing the efficiency of all electric utility assets to lower and stabilize the cost of electricity. Nothing in this section shall subvert the obligation of electric utilities to meet the renewable portfolio standards set forth in section 269-92.

<u>(d) The public utilities commission, in carrying out its responsibilities under this chapter, shall consider whether the implementation of one or more of</u>

the following economic incentives or cost recovery mechanisms would be in the public interest:

(1) The establishment of a shared cost savings incentive mechanism designed to induce a public utility to reduce energy costs and operating costs and accelerate the implementation of energy cost reduction practices;

(2) The establishment of a renewable energy curtailment mitigation incentive mechanism to encourage public utilities to implement curtailment mitigation practices when lower cost renewable energy is available but not utilized through the sharing of energy cost savings between the public utility, ratepayer, and affected renewable energy projects;

(3) The establishment of a stranded cost recovery mechanism to encourage the accelerated retirement of an electric utility fossil fuel electric generation plant by allowing an electric utility to recover the stranded costs created by early retirement of a fossil generation plant; and

(4) The establishment of differentiated authorized rates of return on common equity to encourage increased utility investments in transmission and distribution infrastructure, discourage an electric utility investment in fossil fuel electric generation plants to incentivize grid modernization, and disincentivize fossil generation, respectively.

[~~(d)~~] (e) The chairperson of the commission may appoint a hearings officer, who shall not be subject to chapter 76, to hear and recommend decisions in any proceeding before it other than a proceeding involving the rates or any other matters covered in the tariffs filed by the public utilities. The hearings officer shall have the power to take testimony, make findings of fact and conclusions of law, and recommend a decision; provided that the findings of fact, the conclusions of law, and the recommended decision shall be reviewed and may be approved by the commission after notice to the parties and an opportunity to be heard. The hearings officer shall have all of the above powers conferred upon the public utilities commission under section 269-10."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 2013.)