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Testimony of the Public Utilities Commission

To the
Senate Committee on
Judiciary

February 20, 2025
10:01 a.m.

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

Measure: S.B. No. 1648, S.D. 1
Title: RELATING TO POWER OUTAGES.

Position:

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

Comments:

The Commission supports the intent of this measure to require compensation to electric utility customers for direct damages incurred as a result of extended power outages. The Commission shares the Legislature's concern about the impact of power outages, such as the prolonged and widespread outage in downtown Honolulu and Chinatown in June 2024 (the so-called "Downtown Outages").

The Commission is actively working to address outages. The Commission is reviewing Hawaiian Electric's application to purchase two transformers and two switchgears (Docket 2024-0343) for its Iwilei Substation which had deteriorated with age, compromising the Downtown Network's reliability. Hawaiian Electric also operates under the Performance Based Regulation framework (Docket 2018-0088), which includes performance incentive mechanisms ("PIMs") that shape the company's behavior. Two PIMs impose penalties on Hawaiian Electric for outages based on the duration and frequency of power outages.

The Downtown Outages, as the Legislature acknowledges in the preamble, were detrimental to Honolulu's economy, adversely affected the wellbeing of residents in the area, including families with *keiki* and vulnerable *kupuna*, local small businesses lost revenue, inventory, and equipment, and workers lost wages.

The Downtown Outages, according to Hawaiian Electric's investigation¹, were the unfortunate result of a failed cable splice inside a manhole in the complex network of cables built under Honolulu's downtown that services the buildings and businesses in the dense, busy area. The Downtown Outages were deemed an accident in the independent, third-party forensic analysis commissioned by Hawaiian Electric. Hawaiian Electric's and Kauai Island Utility Cooperative's Tariff Rule No. 16 gives customers the right to file a claim for compensation for certain losses caused by an outage but shields the electric utilities from major liabilities for losses caused by an accident, among other causes (i.e. storm, fire, strikes, riots, war, or any cause outside the company's control).

Nonetheless, the Commission recognizes revisions to Tariff Rule No. 16 are overdue. The policy was last revised in 1991. Since then, an aged grid, greater load demands, and increased cost of living have made the process unsatisfactory for ratepayers. Hawaiian Electric receives nearly 1,000 claim filings from ratepayers seeking hundreds of dollars in compensation every year. In 2023, the average amount paid per closed claim was about \$250, typically for spoiled groceries and broken appliances.² The process is laborious for both ratepayers and the utility, requiring painstaking reviews of owners' receipts on a case-by-case basis to ensure customer compensation is fair and not fraudulent. The process does not easily accommodate individuals with language barriers. Although medium and large business owners may receive some compensation from insurers under general liability insurance (or an equivalent policy), small-businesses and sole-proprietors earnings as well as workers' lost wages and are not covered.

A docketed process, rather than this measure, is preferable for improving the compensation process for ratepayers affected by power outages. S.B. 1648, S.D.1, by expanding Hawaiian Electric's liability for compensable losses, may create financial hardship for the company at a time when it is already weakened financially. The measure also imposes timelines on both the utility and the Commission that are likely untenable. The docketed process allows parties to intervene and the Commission to determine compensation that is just, reasonable and benefits the public.

The Commission intends to open a docket in 2025 to amend Tariff Rule No. 16 to address the concerns with the current claims process. The Commission will provide the Legislature with a progress report on the docket before the 2026 Legislative Session.

Thank you for the opportunity to testify on this measure.

¹ Non-docketed filing submitted September 4, 2024, by Hawaiian Electric Company. PUC Case Number PC-191765. Filing Number F-313-417. Report titled "Hawaiian Electric Network Forensic Analysis Final Report".

² Hawaiian Electric response to Commission Information Request 10 in Docket 2021-0024 filed on April 26, 2024.



**Hawaiian
Electric**

TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY

**SB 1648, SD1
Relating to Power Outages**

Thursday, February 20, 2025

10:01 AM

State Capitol, Conference Room 016

Jack Relf
Associate General Counsel
Hawaiian Electric

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

My name is Jack Relf and I am submitting testimony on behalf of Hawaiian Electric in **opposition** to SB 1648, SD 1, Relating to Power Outages.

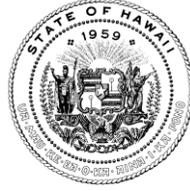
Hawaiian Electric appreciates the intent of this bill to address utility service reliability and financial impacts from service interruptions. However, the bill could have unintended consequences and may violate the Hawai'i Administrative Procedures Act and otherwise be difficult or impossible to administer.

First, the bill could have the unintended consequence of creating conflict between the priorities of safety and reliability. There are situations in which Hawaiian Electric rightfully chooses safety over the fastest possible restoration times. For example, in a Public Safety Power Shutoff situation, Hawaiian Electric will not restore power until the hazardous weather conditions subside and facilities are then inspected to ensure that service may safely be restored. In other situations, the safety of Hawaiian Electric employees will counsel against rushing to restore service. Electric utilities should not be penalized for safe practices.

Second, the bill cannot be effectively administered due to ambiguous and undefined terms and provisions. The bill requires electric utilities to apply for, and the Public Utilities Commission (“PUC”) to adjudicate, claims for waiver from compensating affected customers well before customers are required to file such claims (Page 7, ll. 5-7; Page 6, ll. 9-11). The bill does not require a customer’s participation in a utility’s application for waiver even though customers’ substantive rights are necessarily at issue, and Hawai’i Revised Statutes (“HRS”) §§ 91-1 and 9 require that persons be given notice and an opportunity to be heard if their legal rights or privileges are to be determined and a hearing is required. This flaw cannot be cured because customers whose rights are at issue cannot be identified and provided proper notice because their deadline to file claims under the bill is up to thirty days **after** the PUC must have already issued a decision on a utility’s waiver claim. The bill contains numerous other infirmities such as not defining emergency or contingency expenses or providing a structure for how or when governmental entities and hospitals seek compensation and not defining the terms “unpreventable” (Page 5, l. 19; Page 6, l.1), “fixed charge” (Page 9, l. 10), or “less than fifty per cent of the standard voltage” (Page 5, ll. 5-6).

These issues would result in lengthy and costly litigation by utilities, their customers, and the PUC, creating confusion and uncertainty while the litigation progresses, and would unduly burden electric utilities, whereas the current paradigm allows the PUC to address utility service reliability through tariff approval, the ongoing Performance Based Regulation docket, and opening new investigative dockets to address the matter. This certainty provides stability for both utilities and their customers.

Accordingly, Hawaiian Electric opposes SB 1648, SD 1. Thank you for this opportunity to submit testimony.



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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Judiciary
Thursday, February 20, 2025
10:01 a.m.
Conference Room 016**

**On the following measure:
S.B. 1648, S.D. 1, RELATING TO POWER OUTAGES**

WRITTEN TESTIMONY ONLY

Chair Rhoads 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 establish requirements for compensation to utility customers following a power outage.

The Department supports the intent of this bill to increase justified compensation, and thereby re-focus electric utilities on providing reliable service. In addition, the Department appreciates the work of the Senate Committee on Commerce and Consumer Protection which adopted many of the suggestions we proposed to strengthen the provisions of this bill.

As an alternative to this bill, the Public Utilities Commission (Commission) in written testimony stated that a docketed process examining revisions to the electric

utilities' tariff regarding compensating ratepayers affected by power outages is their preferred method to address the intent of the bill. As noted by the Commission, a docketed process provides an opportunity for interested parties to intervene into the processing and for the determination of a compensation policy and process that is just and reasonable, and for the public benefit. The Department agrees with the Commission's position on this matter.

As a party to all proceedings before the Commission, the Department continues to work to ensure that the interest of the public is well represented and will continue to strive to protect ratepayer interests in any Commission proceeding, including in any upcoming docketed proceeding regarding compensation to utility customers following a power outage.

Thank you for the opportunity to testify on this bill.



Testimony Before the Senate Committee on Judiciary

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

Thursday, February 20, 2025; 10:01 am
Conference Room #016 & Videoconference

Senate Bill No. 1648 SD1 – RELATING TO POWER OUTAGES

To the Honorable Chair Karl Rhoads, Vice Chair Mike Gabbard, and Members of the Committee:

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

KIUC opposes this measure.

KIUC offers a process for members to file a claim for losses or damage as a result of disruption of electrical service. Claims are thoroughly investigated and if it is determined that damage was due to negligence on the utility's part, KIUC will compensate accordingly. KIUC has taken steps to make the claims process as user-friendly as possible, and regularly informs members of their ability to file claims under Tariff Rule 16. KIUC also provides multiple methods of claims intake (on-line, telephone, email) that are available 24/7.

In order to prevent claims, KIUC provides information on how to protect members' assets from damage due to outages, and offers rebates for members to upgrade old appliances to newer, energy efficient models. Under this bill, KIUC would be held responsible for the failure of members to replace old equipment or adequately protect their property from surges, outages and other potential grid or weather events. KIUC would also be burdened with significant additional administrative processes for potentially hundreds of outages on an annual basis. This would both increase administrative costs and impact response time of our personnel to other customer service and operational matters.

While not all members who file claims are satisfied with the result, we feel the current process is fair, equitable and consistently applied.

This bill appears to have been introduced as a result of a single incident on O'ahu which resulted in a large number of claims against Hawaiian Electric. We feel that instances such as these are rare, and that a claims process as described in this bill will create an unnecessary layer of regulation that will, in the end, result in higher utility operational costs that will ultimately be passed on to the ratepayer.

Mahalo for your consideration.

SB-1648-SD-1

Submitted on: 2/18/2025 7:12:57 PM

Testimony for JDC on 2/20/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

SB1648 electric utility to compensate customers for power loss

This is an important bill. If it becomes law the utility will be forced to compensate the customers who suffered losses due to power outages.