
A BILL FOR AN ACT

RELATING TO ELECTRIC RESTRUCTURING.

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

1 SECTION 1. The legislature is aware that electric power
2 generation in the United States is changing from a regulated to
3 a competitive industry. Where power generation once was
4 dominated by investor-owned utility monopolies that owned most
5 of the generation capacity, transmission, and distribution
6 facilities, the electric power industry now has many new non-
7 utility companies that produce and market wholesale and retail
8 electric power. These new companies are in direct competition
9 with traditional electric utilities.

10 Several factors have caused the long-standing utility
11 structure to shift to a more competitive structure. Consumers
12 may reap more benefits from an industry whose members must
13 compete for business than from an industry composed of regulated
14 monopolies. Free markets can stabilize power costs and prices
15 by reducing inefficiencies. Competitive industries are more
16 likely to spur innovations with new technologies, including
17 renewable resource technologies.



1 In Hawaii, average electric rates are among the highest in
2 the nation and we rely on imported fossil fuel to meet over
3 ninety per cent of our energy needs. Electric restructuring can
4 help to stabilize costs, improve products and services, and
5 encourage the generation of power from environmentally-friendly
6 energy sources, such as solar, wind, waves, and fuel cells.

7 The purpose of this Act is to require the public utilities
8 commission to open an electric restructuring docket to develop a
9 plan for unbundling the generation, transmission, and
10 distribution functions of Hawaii's electric utilities.
11 Accordingly, the generation of electricity will be open to
12 competition, while the transmission and distribution of
13 electricity to the end-use consumer will be provided by the
14 electric utilities.

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

18 "**§269-A Electric restructuring; findings and declarations.**

19 The legislature finds and declares that:

- 20 (1) The provision of affordable, safe, and reliable
21 electricity is key to the continuing growth of this



- 1 State and to the health, safety, and general welfare
2 of its residents;
- 3 (2) Rates for electricity in this State are higher than
4 the national average;
- 5 (3) Competitive market forces can play a role in the
6 reduction of Hawaii's electricity rates;
- 7 (4) A competitive generation market should allow customers
8 to choose among alternative generation services and
9 allow customers a reasonable and fair opportunity to
10 self-generate and interconnect;
- 11 (5) Those public policy measures under current law,
12 including but not limited to, hardship provisions,
13 conservation measures, incentives and standards for
14 using renewable energy resources, and net energy
15 metering provisions, should be preserved;
- 16 (6) State rules should encourage and allow for a
17 sufficient number of in-state generating facilities to
18 ensure an adequate and reliable power supply within
19 the State and ensure development of a truly
20 competitive generation market;



- 1 (7) The assurance of safe, reliable, and available
2 electric service to all customers in a uniform and
3 equitable manner is an essential governmental
4 objective and a restructured electric market must
5 provide adequate safeguards to assure universal
6 service and customer service protections;
- 7 (8) The generation of electricity must be achieved in a
8 manner that does not endanger the public health or
9 safety and that minimizes negative environmental
10 impacts;
- 11 (9) The restructuring of the electric industry may result
12 in a reduction in staffing levels at Hawaii generation
13 facilities and those workers adversely affected by the
14 restructuring should be protected; and
- 15 (10) The current method of providing electric service has
16 involved a balancing of costs, risks, and rewards for
17 electric utilities and their customers, and therefore,
18 the transition to a competitive generation market,
19 including the determination of stranded costs, should
20 be based on the principles of fairness and
21 reasonableness and the result of a balance of the



1 interests of electric customers, electric utilities,
2 and the public at large.

3 **§269-B Electric restructuring; unbundling generation**
4 **functions from transmission and distribution functions.** (a)

5 The public utilities commission shall open an electric
6 restructuring docket to develop a plan to unbundle the
7 generation assets, and all related operations and functions, of
8 each electric utility company from its transmission and
9 distribution assets, and all related operations and functions,
10 in accordance with the legislative findings and declarations set
11 forth in section 269-A; provided that the plan shall, among
12 other things:

13 (1) Assume the continued regulation by the public
14 utilities commission of the electric utilities with
15 respect to their distribution and transmission assets,
16 and all related operations and functions; provided
17 that each electric distribution company shall:

18 (A) Maintain the integrity of the distribution system
19 in conformity with the National Electric Safety
20 Code and other standards found applicable by the
21 commission that are practiced by the electric



1 distribution industry, in a manner sufficient to
2 provide safe and reliable service;

3 (B) Provide nondiscriminatory access of its
4 distribution facilities to every electric
5 supplier who is licensed pursuant to rules
6 adopted by the commission under chapter 91; and

7 (C) Have the obligation to connect all customers to
8 the company's distribution system, subject to
9 rates, terms, and conditions as may be approved
10 by the commission;

11 (2) Require the divestiture of each electric utility
12 company's generation assets, and all related
13 operations and functions, by a certain date and
14 provide a strategy for the transfer of all generation
15 assets not divested by that date that will minimize
16 stranded costs;

17 (3) Provide for the buyout of all entitlements and
18 obligations from the electric utility's existing power
19 purchase contracts by the divestiture date described
20 in paragraph (2) and a strategy for power purchase
21 contracts that are not bought out by the divestiture



1 date, such as allowing any power purchase contract
2 that is not bought out by the divestiture date
3 described in paragraph (2) to succeed to the electric
4 distribution utilities for the duration of the
5 existing contract;

6 (4) Mitigate stranded costs to the fullest extent
7 possible, including requiring the electric utility to
8 show to the satisfaction of the commission that the
9 electric utility has taken all reasonable steps to
10 mitigate to the maximum extent possible the total
11 amount of stranded costs that it seeks to claim and to
12 minimize the cost to be recovered from its customers;

13 (5) Require any entity supplying electric generation
14 services to end use customers using the transmission
15 or distribution facilities of an electric distribution
16 company to obtain a license from the public utilities
17 commission, in accordance with rules adopted pursuant
18 to chapter 91, to ensure the safety and reliability of
19 the supply of electricity in this State; provided that
20 the public utilities commission shall not issue a
21 license unless the applicant can demonstrate to the



1 satisfaction of the commission that the applicant has
2 the technical, managerial, and financial capability to
3 provide electric generation services and provides and
4 maintains a bond or other security in the amount and
5 form approved by the commission to ensure its
6 financial responsibility and its supply of electricity
7 to end use customers in accordance with contracts,
8 agreements, or arrangements; provided further that
9 licenses shall be subject to periodic review by the
10 commission;

11 (6) Develop a code of conduct for electric distribution
12 companies, generation entities or affiliates, and
13 electric suppliers by rules adopted pursuant to
14 chapter 91; provided that the code of conduct shall
15 become effective upon the completion of electric
16 utility unbundling but not later than January 1, 2012;
17 provided further that the code of conduct shall
18 include but not be limited to:

19 (A) Measures to ensure information, revenues,
20 expenses, costs, assets, liabilities, or other
21 resources derived from or associated with



1 providing electric transmission or distribution
2 service by an electric distribution company are
3 not used to subsidize any generation entity or
4 affiliate;

5 (B) Safeguards to assure fair dealing between
6 electric distribution companies and all other
7 electric suppliers, including any generation
8 entities or affiliates of the electric company;

9 (C) Procedures for ensuring electric suppliers
10 nondiscriminatory access to the transmission and
11 distribution facilities of the electric
12 distribution company; and

13 (D) Measures to ensure that an electric distribution
14 company provides transmission and distribution
15 service, applies tariffs to generation entities
16 or affiliates and to unaffiliated electric
17 suppliers in a nondiscriminatory manner, and
18 enforces these tariff provisions; and

19 (7) Allow the electric distribution companies to continue
20 to provide power to and receive power from eligible



1 customer-generators under the State's net energy
2 metering program.

3 (b) The public utilities commission shall hold a hearing
4 and issue its final decision and order and approved unbundling
5 plan in the electric restructuring docket in a time frame that
6 will allow unbundling to be accomplished by January 1, 2012.
7 Any hearing shall be conducted as a contested case in accordance
8 with chapter 91.

9 (c) The public utilities commission shall submit:

10 (1) A progress report on the electric restructuring docket
11 to the legislature no later than twenty days prior to
12 the convening of the 2008 regular session and every
13 regular session thereafter, until the final decision
14 and order and approved unbundling plan in the docket
15 is issued;

16 (2) A final report on the electric restructuring docket to
17 the legislature no later than twenty days prior to the
18 convening of the regular session immediately following
19 its issuance of the final decision and order and
20 approved unbundling plan in the electric restructuring
21 docket; and



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1 (3) Proposed legislation necessary to carry out the
2 purposes of this section to the legislature in a time
3 frame that will allow electric utility unbundling to
4 be accomplished by January 1, 2012."

5 SECTION 3. New statutory material is underscored.

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

7

INTRODUCED BY: *Gyntha Thelen*

JAN 17 2007



Report Title:

Electric Utility Restructuring; Electric Competition; Unbundling

Description:

Requires the public utilities commission to open an electric restructuring docket for the purpose of developing a plan to unbundle the generation functions of Hawaii's electric utilities from their distribution and transmission functions.

