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LAWRENCE M. REIFURTH
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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

MONDAY, FEBRUARY 23, 2009
2:15 P.M.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS TO THE HONORABLE REPRESENTATIVE ROBERT HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 244 – RELATING TO PUBLIC UTILITIES.

DESCRIPTION:

This measure directs the Hawaii Public Utilities Commission (“Commission”) to establish discounted rates for providing services used in agricultural activities located in agricultural districts.

POSITION:

The Division of Consumer Advocacy (“Consumer Advocate”) offers comments for this Committee’s consideration.

COMMENTS:

The measure amends section 269-26.5, Hawaii Revised Statutes, which was enacted last year to provide for preferential rates not only for water service, but for any public utility service that is provided “to ratepayers that engage in agricultural activities.”

It is important to note that the measure itself clearly articulates general ratemaking principles by stating that all such preferential rates approved by the Commission “shall be subsidized by the rates charged to other customers of the public utility.” The Consumer Advocate will defer to the judgment of the Legislature, but must

emphasize that other ratepayers, not the utilities, will subsidize the preferential rates provided to agricultural users.

Subsection (b) of the measure suggests that “[u]pon receipt of a bona fide request for preferential rates . . . a public utility shall provide preferential rates . . . subject to [Commission] approval.” Allowing the request to be initiated by the agricultural customer, given the broad application to all public utilities envisioned in this measure, will cause undue hardship to other consumers and significantly increased, if not unmanageable, workloads for the Commission and Consumer Advocate.

In order to provide a preferential rate, the Commission will need to review the public utility’s rate case application, to avoid single-issue ratemaking. As written, a single agricultural customer would be able to launch at least two rate cases immediately – one for electrical service and one for water service. The filing of rate cases by public utilities, even when they do not otherwise need an increase in rates, results in increased rates for all ratepayers, since the cost of such rate cases are borne by the customers of the public utility, and not solely by the public utility.

If this Committee determines that it is in the public interest to have consumers of all public utilities subsidize agricultural consumers, it would be more reasonable to simply provide the Commission with the authorization to provide such preferential rates in public utility rate cases as they are reviewed by the Commission. This would empower the Commission to use such authority, but would not require the immediate filing of dozens of rate cases for Commission review.

Finally, we recommend that the following language be removed from the statute to provide additional protection for consumers:

~~[For rate cases initiated pursuant to this section, the public utilities commission shall allow the recovery of any reasonable unamortized costs incurred by the public utility in its previous rate case; provided however, upon full amortization of these costs, rates shall be adjusted accordingly.]~~

This provision allows utilities to be indifferent to filing new rate case applications in response to bona fide requests for preferential rates because they will be able to recover all of the expenses for the recent rate case plus any rate case expenses in the new rate case application filed with the Commission to establish such preferential rates. Such a provision lays a greater burden on consumers to pay for such utility costs. Elimination of the provision would require utilities to bear the cost of such expenses, which likely would not be unreasonable given prior Commission decisions and the fact that utilities likely would seek to update other revenue requirements with such a filing.

Thank you for this opportunity to testify.

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
MONDAY, FEBRUARY 23, 2009
2:15 P.M.
Room 325**

**HOUSE BILL NO. 244
RELATING TO PUBLIC UTILITIES**

Chairperson Herkes and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 244 that seeks to authorize the Public Utilities Commission (PUC) to establish preferential rates for public utility services that are used by ratepayers for agricultural activities in a public utility's service area. Public utility services in addition to potable water include electricity and freight transport. Preferential rates are to be subsidized by rates charged to other customers of the public utility.

As a strong advocate for agriculture in Hawaii, the Department supports the intent of this bill. For your information, there is already precedence for preferential rates for agriculture and agricultural irrigation water. We defer to the Public Utilities Commission (PUC) regarding the implementation of this measure.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
FEBRUARY 23, 2009**

MEASURE: H.B. No. 244
TITLE: Relating to Public Utilities.

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill proposes to direct public utilities to establish discounted rates for providing services such as potable water, electricity and freight transport used for agricultural activities in agricultural districts.

POSITION:

The Public Utilities Commission ("Commission") defers to the Legislature on the substance and merits of this bill that furthers the policy of favoring agricultural activities by requiring the subsidization of all agricultural utility and transportation rates by other ratepayers.

COMMENTS:

- As this committee is already probably aware, if this bill is passed all other utility and transportation ratepayers will have to pay higher rates as a result of this policy to subsidize agricultural utility and transportation ratepayers.
- The Commission will defer to the Legislature's determination in this regard.

Thank you for the opportunity to testify.



Legislative Testimony

HB 244, RELATING TO PUBLIC UTILITIES

Senate Committee on Consumer Protection & Commerce

February 23, 2009

2:15 p.m.

Room: 325

The Office of Hawaiian Affairs (OHA) supports the intent of HB 244, which would direct public utilities to establish discounted rates for providing services used for agricultural activities located in agricultural districts.

OHA agrees that farmers and ranchers must remain competitive and self-sustaining for the betterment of this state as a whole. Due to the fact that agriculture is important for Hawai'i, we also agree that the state should seek opportunities to provide incentives and mechanisms to ensure that the local agricultural industry is supported.

OHA finds that the purpose of this bill parallels many of the objectives found in the state constitution, county ordinances, and even the current Hawaii Revised Statutes - all of which mandate that the Legislature conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands in this state.

However, we caution that this bill has the potential to go too far. OHA usually would support such discounted rates and subsidies for agricultural uses, due to temporary hardship from natural disasters, for example. By replacing the current and singular focus on potable water rates to the broader public utilities services, this bill seeks to discount too great a variety of services. To provide these discounted rates across the board, at the expense of other rate payers, may be overly burdensome (almost to the point of a tax) for other rate payers, especially in these economically challenging times.

Therefore, while OHA supports the intent of this measure, we caution the Committee against potentially over burdensome discounts that would affect other ratepayers. Thank you for the opportunity to testify.



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TESTIMONY

House Committee on Consumer Protection and Commerce

RE: HB 244 Relating to Public Utilities

Chair Herkes and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of its member farmers and ranchers is in **support** of HB244 requiring the PUC to provide an agricultural rate structure for agriculture.

Last year, the Legislature passed a measure requiring the PUC to provide an agricultural rate structure for potable water deliveries. While water is a critical component to agriculture, our farmers and ranchers are finding equal challenges in electricity costs on their farms. Many produce farmers have refrigeration units and other infrastructure that require electricity. Current food safety requirements have strict guidelines about keeping produce at required temperatures in the name of food safety. To meet these requirements, farmers expend a significant portion of their monies on power costs. This measure seeks to assist in this area. Additionally, farmers and ranchers are seeking ways to increase their revenue streams by having value added products. Many of these processes will also require power. In passing this measure, the overall winner in providing a more affordable rate will be the consumer as farms will stay in business and locally grown produce will be available.

In addition to the precedence of agricultural rates for potable water in Hawaii, there is other examples of such discounts. Massachusetts law provides for agricultural discounts to those engaged in farming. Cited below is the statute and further information can be found at: <http://www.mass.gov/agr/admin/farmenergy.htm>

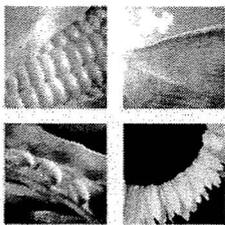
Chapter 164 of the Acts of 1997

AN ACT RELATIVE TO RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY IN THE COMMONWEALTH, REGULATING THE PROVISION OF ELECTRICITY AND OTHER SERVICES, AND PROMOTING ENHANCED CONSUMER PROTECTIONS THEREIN.

SECTION 315. Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, any distribution company, aggregator, gas company, municipal lighting plant, or supplier, as defined and governed pursuant to the provisions of chapter 164 of the General Laws, shall be required to provide electricity or gas services to persons or corporations engaged in the business of agriculture or farming, as defined pursuant to section 1A of chapter 128 of the General Laws, at rates, prices, and charges established at least 10 per cent below any other rate, price, or charge category, with further rate, price, or charge considerations granted for off-peak consumption.

Approved November 25, 1997.

We respectfully request your support of HB244 to help ensure the long term viability of agriculture in Hawaii. Thank you for this opportunity to provide our views on this matter.



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

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Testimony By: Alicia Maluafiti
HB 244, Relating to Public Utilities
House CPC Committee
Monday, Feb. 23, 2009
Room 325, 2:15 pm

Position: Strong Support

Chair Herkes and Members of the House CPC Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

Much has been said about the food security and sustainability of Hawaii's agriculture. We are all concerned about the limited supply of food in the islands. This measure will provide farmers within an agricultural district PUC approved preferred rates for potable water, electricity and freight transport. HB 244 brings Hawaii closer to increasing food supply and agriculture sustainability.

We urge your support of this bill. Thank you for the opportunity to testify.

Sharon Sagayadoro

From: Jeff McCall [jeffreymccall@hawaiiantel.net]
Sent: Sunday, February 22, 2009 10:13 PM
To: CPCtestimony
Cc: Chris Manfredi
Subject: H.B. 244, Monday, February 23, 2009, 2:15 pm, Conference room 325

Jeffrey W. McCall
McCall Flower Farm, Inc
P.O. Box 837
Pahala, HI 96777

February 17, 2009

Dear sirs,

I am offering this testimony in favor of HB 244, directing public utilities to establish discounted rates for providing services used for agricultural activities.

We have been farming in Wood Valley for 16 years, growing temperate cut flowers for the hawaii market. It is becoming increasingly difficult to compete with cut flower growers from around the world, many paying much less for inputs including electricity and water. We use significant amounts of electricity to produce a quality product. If Hawaii wants to continue to benefit from an agricultural economy and the green benefits to the tourism industry, some support will be necessary. Discounted rates for electricity and other utilities will be a large benefit to our operation.