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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

THURSDAY, JANUARY 29, 2009
2:00 P.M.

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

HOUSE BILL NO. 0619 RELATING TO PUBLIC UTILITIES.

DESCRIPTION:

This measure directs the Public Utilities Commission ("Commission") to prepare a study on the feasibility of establishing renewable energy zones, which are designated areas or facilities in which energy may be generated from privately owned renewable resources and distributed to users via transmission infrastructure that is separate from power transmission infrastructure owned or operated by a public utility.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") offers comments for this Committee's consideration and defers to the Commission as to the feasibility of completing the study within the timeframe provided and without additional resources provided to conduct the public hearings. The Consumer Advocate does not support the measure to the extent it impacts or replaces the priorities set forth in the Executive Biennium Budget for Fiscal Years 2009-2010.

COMMENTS:

Additional guidance to the Commission should be offered to the Commission in this measure, since it is not clear whether the study envisioned is to allow the Commission to gather information to work within the existing statutory framework, or obtain information to provide the Commission with the basis to offer changes to State law. In addition, the specific scope and definition of a renewable energy zone needs to

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House Committee on Consumer Protection and Commerce
Thursday, January 29, 2009, 2:00 p.m.

be further clarified to determine whether the purpose of doing a feasibility study for establishing renewable energy zones does or does not contemplate public utility regulation. At present, State law has been interpreted by the Hawaii Supreme Court to mean, among other things, that any person providing electrical services to more than one person is a "public utility" subject to regulation by the Commission. This bill appears to suggest that the provision of electrical services by a person who is not an existing "public utility" would not or should not be regulated by the Commission.

The measure refers to "privately owned generation facilities." Is this intended to mean generation facilities that are not owned by public utilities? Again, it appears that it would be helpful for the Commission to have clear guidance as to what the intent of the measure strives to achieve.

Thank you for this opportunity to testify.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Thursday, January 29, 2009
2:00 PM
State Capitol, Conference Room 325

in consideration of
HB 619
RELATING TO PUBLIC UTILITIES

Good Afternoon Chair Herkes, Vice Chair Wakai, and Members
of the Committee.

The Department of Business, Economic Development, and
Tourism (DBEDT) supports the intent of HB 619, to support the
creation and designation of renewable energy zones to increase
the use and development of renewable energy resources. However,
we believe that the function of creating and designating
renewable energy zones is best served and incorporated in the
Energy Resources Coordinator's statutory roles and functions as
established in Section 196-4, Hawaii Revised Statutes.

The creation of renewable energy zone is an important
element in the transformation of Hawaii's economy from one that
is heavily dependent on imported fossil fuel for over 90 per cent

indigenous renewable energy. The Administration's bill Relating to Hawaii's Clean Energy Initiative in Electric Generation and Delivery, HB 1052, incorporates the function of creating and designating renewable energy zones in the Energy Resources Coordinator's statutory roles and functions as the most effective means to effectively carry out this function. The statutory functions and activities of the Energy Resources Coordinator already include preparing energy studies and analysis including the collection, development and management of energy data. The Energy Resources Coordinator's relationship and partnership with federal entities and national laboratories such as the US Department of Energy and the National Renewable Energy Laboratory will effectively enable the collection and analysis of data and information necessary in identifying geographic areas that are rich with renewable energy resource potential that may be designated as renewable energy zones.

The Energy Resources Coordinator's primary duties are to formulate plans, conduct systematic analysis of existing and proposed energy resource programs, and make recommendations to the governor and to the legislature on energy matters related to the acquisition, utilization and conservation of energy resources which represent the most effective allocation of resources for the development of energy sources.

We believe that an important element in Hawaii's energy transformation is the systematic identification of geographic

areas that are rich with renewable energy resources that may be designated as renewable energy zones. Such a function of identifying, creating, and designating renewable energy zones is best served by the Energy Resources Coordinator and incorporated in the Energy Resources Coordinator's statutory functions specified in Section 196-4, Hawaii Revised Statutes.

Thank you for the opportunity to offer these comments.

**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
JANUARY 29, 2009**

MEASURE: H.B. No. 619
TITLE: Relating to Public Utilities.

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill proposes to require the Public Utilities Commission ("Commission") to prepare a study on the feasibility of establishing renewable energy zones ("REZs") that are entirely free from regulation by the Commission.

POSITION:

The Commission has concerns and several recommended changes and suggestions for this bill, and offers the following:

COMMENTS:

- **Currently, section 269-6, Hawaii Revised Statutes ("HRS"), requires the Commission to supervise all public utilities, and grants it authority to consider the need for increased renewable energy use in exercising its duties. This bill requires the Commission to study the feasibility of creating zones in which renewable energy can be generated by privately-owned facilities and distributed to users by way of transmission infrastructure unconnected to those operated or owned by a public utility.**
 - The Commission is concerned that this bill does not specify the scope of renewable energy generating facilities being contemplated for non-regulation by the Commission, or for whom non-regulated production and distribution is intended.
 - The Commission supports the intent of this bill to find ways to increase renewable energy generation and study the feasibility of establishing REZs, but it is concerned that while it is currently involved in increasingly important and necessary efforts to grow renewable energy generation in the state, and the simultaneous strengthening of transmission and distribution infrastructure to reliably deliver it, in order to move away from an over-dependence on imported and environmentally damaging fossil fuels, this bill would divert the Commission's scarce resources from those efforts.

- This bill would require the Commission to plan and hold public hearings to obtain input on the feasibility of creating renewable energy zones. Planning for the lengthy process of public hearings requires scarce staff resources at a time when Commission and state's resources are already stretched. The bill is silent as to whether the hearings are to be held statewide or limited in scope, and there is no provision for increased funding for staff, transportation, or other resources to conduct them.
- Further, the Commission may need to acquire the services of one or more outside consultants to assist in conducting the feasibility study, and, again, there is no provision for additional funding in this bill for obtaining such services.
- Also, the bill requires the feasibility study to be completed in a very short period of time (twenty days prior to convening of the 2010 regular session, or less than one-year from now), and, in all likelihood the study would require a much greater length of time to accomplish.
- Other states have, and some are currently, exploring the creation of REZs for purposes of promoting the development of energy resources to meet their renewable portfolio goals by identifying areas with potential for renewable energy production. If the intent of the bill is to create areas that are similar to enterprise zones and special zoning districts that are intended to promote economic development as well as renewable energy, and provide economic incentives such as tax credits and other economic incentives, as well as assist with streamlining the siting and permitting of renewable energy projects in REZs, this study would be more in line with the functions of the Department of Business, Economic Development, and Tourism and should be conducted by that department.
- In addition, the Commission concurs with the position of the Director of the Department of Business, Economic Development, and Tourism that its energy resources coordinator would be in a better position to create and designate REZs.
- Accordingly, the Commission suggests that regardless of what agency is given the responsibility of conducting the study, the bill should be amended to delete the following phrase from paragraph (a) of SECTION 1: that are free from regulation by the public utilities commission. since the structure and design of REZs should be analyzed by the study.
- In other words, the study itself should make determinations regarding the REZs' structure, including economic incentives, zoning, siting and permitting authority, and any other regulatory exceptions.

Thank you for the opportunity to testify.



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

January 29th, 2008, 2:00 P.M.

Room 325

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 619

Chair Herkes and members of the committee:

The Blue Planet Foundation supports the intent of House Bill 619, directing the public utilities commission (PUC) to prepare a study on the creation of renewable energy zones and report its findings to the legislature.

Blue Planet believes it would be valuable to initiate a process to identify areas where clean energy generation makes the most sense in terms of feasibility, environmental impact, cost, social and cultural impacts, and other factors. Such a process would accelerate clean energy development (both facilities and infrastructure) while enabling community and environmental concerns to be aired and discussed early in the process. Clean energy development will likely entail significant tradeoffs (i.e. reduction of view plane for a wind farm versus cost of a more expensive distributed photovoltaic installations). Ultimate decisions on where to site clean energy projects will be stronger with more public discussion about these tradeoffs and how they will affect the community, culture, and the environment.

House Bill 619, however, narrowly defines "renewable energy zones" as privately owned renewable energy facilities and transmission infrastructure that is kept separate from infrastructure owned or operated by a public utility. Blue Planet believes the definition should be broader. While examining the feasibility of such areas would be a useful exercise, we believe that this measure should be expanded to direct the PUC to also explore the feasibility of establishing renewable energy zones for projects that would interconnect with the public utilities.

Further, this measure should provide the PUC more direction regarding the scope of the feasibility study. The PUC should examine not only what areas can support energy facilities (and what technology type), but also the potential impacts at each of the areas in terms of environmental resources, critical habitat, cultural history, environmental justice, community impact, transmission and infrastructure, and other key attributes.

This broad feasibility study would provide the legislature and the public with the breadth of information it would need to make an informed decision about whether to proceed with establishing renewable energy zones in Hawai'i.

Thank you for the opportunity to testify.

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org

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