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TO THE HOUSE COMMITTEE ON FINANCE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

FRIDAY, FEBRUARY 19, 2010
11:00 A.M.

TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS TO THE HONORABLE REPRESENTATIVE MARCUS R. OSHIRO, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 2642 - RELATING TO UTILITIES REGULATION

DESCRIPTION:

This measure proposes to authorize sufficient funding for the operation and staffing of the Public Utilities Commission ("Commission") and the Division of Consumer Advocacy ("Consumer Advocate") in order to facilitate the agencies' ability to meet their expected objectives and to fulfill the intent of the reorganizations that were begun with Act 177 and Act 183 from the 2007 legislative session. In addition, the measure proposes to require that applicable state and/or county agencies should assist in carrying out the proposed measure.

POSITION:

The Consumer Advocate appreciates the support that this measure proposes relating to the need to provide Hawaii's utility regulatory agencies adequate resources to deal with the demands associated with Hawaii's Clean Energy Initiative in addition to the standard utility and transportation requirements, but acknowledges the need to ensure that any such action should be subject to detailed review of this proposal within the context of the State's overall budget.

COMMENTS:

This measure proposes to make available the resources necessary to ensure that the Commission and the Consumer Advocate are sufficiently funded and staffed to handle the normal ongoing workload that is associated with regulating various public utility industries, such as the electric, natural gas, telecommunications, water, and wastewater industries, as well as the regulation of transportation companies, such as those engaged in intraisland shipping. It should be noted that the normal, ongoing workload generally consists of rate change requests, capital improvement project applications, and other matters. This normal, ongoing workload has been increased recently due to the Clean Energy Initiatives that the State is actively pursuing. These initiatives are resulting in dockets that are novel, complex and resource consuming.

In order to manage the workload, the Consumer Advocate has been considering and implementing various measures to meet the ongoing workload and the associated procedural deadlines that are established. One of these measures is evaluating the dockets to determine the general type of or specific applications in which the Consumer Advocate will not participate, such as requests filed by companies seeking certification of authority to provide telecommunications services in Hawaii and certain types of applications related to financing. The Consumer Advocate has also implemented other measures, including reducing the scope of analysis in order to minimize the time that might be required by available staff or consultants to complete the review of the application within the procedural deadlines.

Historically, the Commission and the Consumer Advocate have had difficulties finding and retaining individuals to fill available vacancies. These difficulties are more pronounced for the Consumer Advocate because of the expectations of analysts to provide written and oral testimonies under the applicable deadlines. The Consumer Advocate had already implemented various measures meant to be short-term in nature in order to address the staffing deficiencies experienced, but with the additional budget cuts and elimination of vacant positions, the already difficult situation was exacerbated, which required even more extreme measures. Such measures adversely affect the Consumer Advocate's effectiveness on both short- and long-term bases, but are necessary to meet the ongoing workload and procedural deadlines.

Thus, the Consumer Advocate truly appreciates the acknowledgement of the legislature of the importance that the Consumer Advocate and the Commission have on Hawaii's businesses and residents on a daily basis. The Consumer Advocate, however, understands the current situation with the State's budget crisis, and, thus, also acknowledges the need for a review to ensure that any modification to the currently proposed budget by the State must be consistent with the overall objectives of the State.

Thank you for this opportunity to testify.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON FINANCE
FEBRUARY 19, 2010**

MEASURE: H.B. No. 2642

TITLE: Relating Utilities Regulation

Chair Oshiro and Members of the Committee:

DESCRIPTION:

This bill appropriates moneys for the reorganization of the Public Utilities Commission ("Commission") and the Division of Consumer Advocacy ("DCA").

POSITION:

The Commission supports this bill, which recognizes the need to fully fund regulatory resources that are needed to achieve important and high priority goals of the State.

COMMENTS:

- The Commission is appreciative of the support that this bill lends towards effecting the Commission's restructuring plan, which was previously required by the Legislature, and required to be implemented by the Legislature.
- As described in the bill, the Legislature already recognized the importance of fully funding public utility regulatory agencies when it passed Act 143, Session Laws of Hawaii ("SLH") 2006, which required the Commission and the DCA to develop a comprehensive plan to restructure and supplement their respective agencies and resources to function more effectively and efficiently.
- The Commission submitted the restructuring report required by Act 143 to the Legislature in December 2006 (the "Commission's Report"). The Division of Consumer Advocacy submitted a similar report.
- The Legislature then further recognized the need to provide adequate resources to the Commission when it required in Act 177, SLH 2007, that the Commission shall restructure its operations as provided in the Commission's Report. In Act 177, the Legislature also recognized the need to obtain additional office space and to relocate the Commission's office.
- The Commission agrees that improving the capabilities of regulatory bodies is essential to successful implementation of current and future energy policy reforms. In addition to traditional regulatory responsibilities, the Commission's role in regulatory and policy matters has been changing recently with increased responsibility in many important policy and administrative matters, with an emphasis in energy policy. As such, the

restructuring and relocation proposals detailed in the Commission's Report and required by Act 177 are still required to enable the Commission to efficiently and effectively carry out its statutory duties and the State's high priority initiatives. The Commission believes that investing in the Commission to make it as effective as possible will greatly benefit the public interest.

- The need for Act 177 has not changed, and in fact, the need for Act 177, is even greater with the increased need to evaluate and implement, where appropriate, many new clean energy policy objectives that are high priorities for the State.
- The restructuring required by Act 177 can be fully funded with the Commission's Special Fund. The Commission and DCA are funded with revenues from the Commission's Special Fund, established in Chapter 269-33, Hawaii Revised Statutes ("HRS"), which is supported primarily from fees charged to the entities that the Commission regulates. Funding the Commission's restructuring plan will require approximately \$4.95M in Fiscal Year 2011 and approximately \$2.42M (recurring costs) in Fiscal Year 2012. Section 4 of the bill should be revised to include these amounts.
- To prevent the possible automatic transfer of moneys appropriated for a relocation into the State General Fund at the end of each year as provided in HRS § 269-33, some provision should be made to prevent the lapsing of relocation moneys if the moneys cannot be spent or encumbered by the end of the year. The full relocation of the Commission's Oahu office is a critical, necessary component of the Commission's restructuring. Preventing the lapsing of such funds under HRS § 269-33 will enable the Commission to proceed with the relocation in Fiscal Year 2011 and address any unforeseen issues that may occur beyond the Commission's control that may delay any required initial steps and prevent the completion of the relocation project by the end of Fiscal Year 2011. If the annual lapsing of relocation funds under HRS § 269-33 is not prevented, the moneys earmarked for relocation that are not spent or encumbered due to unforeseen relocation delays will lapse to the State General Fund.
- The Commission also supports funding the DCA's reorganization plan as detailed in Act 183, SLH 2007. As an *ex officio* party to any proceeding before the Commission, the DCA's ability to perform its duties and responsibilities efficiently has a direct impact on the Commission's operational efficiency and effectiveness. The Commission defers to the DCA for their specific budget requirements to the extent that the Commission's Special Fund can support their request and is in compliance with Chapter 239-33, HRS.

Thank you for the opportunity to testify.



February 19, 2010

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE
ON HB 2642 RELATING TO UTILITIES REGULATION**

Thank you Chair Oshiro and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill.

The Public Utilities Commission is charged with the regulation of various industries who pay a fee to support the regulatory activities.

Although the collections are adequate to maintain the regulatory function, the PUC is limited as to the amount they may expend. This hamstrings the Commission.

The worst part of it is the "excess" lapses into the General Fund. The PUC fee is statutorily payed by certain industries for a service. That money belongs to the PUC and/or those industries.

Any excess should be remitted back, or credited, to the industries in some manner, or at the very least, NOT handed off to the General Fund.

Thank you.



COLLEGE OF SOCIAL SCIENCES

HAWAII ENERGY POLICY FORUM

UNIVERSITY OF HAWAII AT MĀNOA

Hawai'i Energy Policy Forum

Ms. Stephanie Ackerman, The Gas Co.
Mr. Robbie Alm, HECO
Ms. Amy Asselbaye, Office of US Rep. Neil Abercrombie
Ms. Madeleine Austin, World Business Academy
Mr. Warren Bollmeier, Hawai'i Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Ms. Elizabeth Cole, The Kohala Center
Mr. Kyle Datta, New Energy Partners
Ms. Laura Dierenfield, People's Advocacy for Trails Hawai'i (PATH)
Mr. Mark Duda, HI Solar Energy Asst.
Sen. Kalani English, Hawai'i State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman, Haiku Design & Analysis
Sen. Mike Gabbard, Hawai'i State Senate
Mr. Mark Glick, OHA
Dr. Michael Hammett, RCUH
Dr. Robert Harris, Sierra Club
Mr. William Kaneko, Hawai'i Institute for Public Affairs
Mr. Darren Kimura, Energy Industries Holdings
Ms. Kelly King, Sustainable Biodiesel Alliance
Mr. Mike Kitamura, Office of US Senator Daniel K. Akaka
Mr. Kal Kobayashi & Victor Reyes, Maui County Energy Office
Mr. Laurence Lau, State of Hawai'i DOH
Ms. Allyn Lee, C&C of Honolulu Dept. of Design & Construction
Mr. Stephen Meder, UH Center of Smart Building & Community Design
Mr. Aaron Miyashiro, UH College of Social Sciences Public Policy Center
Rep. Hermina Morita, Hawai'i State House of Representatives
Mr. Dean Nishina, Div of Consumer Advocacy
Mr. Tim O'Connell, USDA-Rural Development
Ms. Melissa Pavlicek, Hawai'i Public Policy Advocates
Mr. Ted Peck, State of Hawai'i DBEDT Strategic Industries Division
Mr. Randy Perreira, Hawai'i State AFL-CIO
Dr. Rick Rocheleau, UH HNEI
Mr. William Rolston, Hawai'i County Dept. of Research & Development
Mr. Peter Rosegg, HECO
Mr. Steven Rymsha, KIUC
Mr. Riley Saito, PowerLight Corporation
Mr. Glenn Sato, Kaua'i County Office of Economic Development
Mr. Bill Short, BIA of Hawai'i
Ms. Joelle Simonpietri, Simonpietri Enterprises LLC
Mr. H. Ray Starling, Hawai'i Energy Group LLC
Mr. Lance Tanaka, Tesoro Hawai'i Corp.
Dr. Don Thomas, UH Center for the Study of Active Volcanoes
Ms. Maria Tome, State of Hawai'i DBEDT Energy Office
Mr. Murray Towill, Hawai'i Hotel Association
Mr. Joshua Wisch, Office US Representative Mazie Hirono
Mr. Alan Yamamoto, Office US Senator Daniel Inouye

Testimony of Carl Freedman, Chair
Regulatory Reform Working Group
Hawai'i Energy Policy Forum

House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Friday, February 19, 2010
11:00 a.m. Conference Room 308

IN SUPPORT OF HB 2642– Relating to Utilities Regulation

I am Carl Freedman, Chair of the Regulatory Reform Working Group of the Hawaii Energy Policy Forum ("Forum"). The Forum is comprised of 47 representatives from Hawaii's electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive "10 Point Action Plan," which serves as a framework and guide for meeting our preferred energy vision and goals.

HB 2642 would implement the reorganizations of the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) that were approved by the Legislature in 2007 in Acts 177 and 183. The Forum wholeheartedly agrees with 2007 Legislature's findings that the reorganizations of these agencies "are essential for providing sufficient regulation of Hawaii's public utilities; controlling utility costs for Hawaii's people, businesses, and governmental agencies; and successfully implementing meaningful energy policy reform in Hawaii."

HB2642 is a cost saving measure. It would reduce the annual utility expenditures of State government by several times as much as the annual cost of fully funding the reorganization of the PUC and DCA. These agencies regulate over \$3 billion of annual telecommunications and electricity utility bills paid by Hawaii's people, businesses and government agencies. The Forum estimates that fully funding the reorganizations would ultimately result in savings of at least \$100 million annually due to increased regulatory efficiency and consumer protection, bolstered utility industry financial health and prudent allocation of utility investments and expenditures. Funding for the PUC and DCA, including funding of the reorganizations reestablished by this bill, derives from revenues collected by the PUC from users of utility services, not from state general funds.

Sufficient utility regulation and consumer protection are especially essential in the next several years as Hawaii prepares to invest billions of dollars in new utility and private sector infrastructure associated with a transition from over-dependence on fossil fuels to increased reliance on efficiency and renewable energy resources.

Based on the foregoing, the Forum supports HB2642 and respectfully urges passage of the bill.

Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organizations.

and economic fabric of the area; (2) to encourage the widespread utilization of solar equipment as a means of lowering the cost of energy to the American public, to help stabilize our economy, to develop independence from fossil fuel and thereby reduce carbon emissions that contribute to climate change; (3) to establish, foster and advance the usefulness of the members, and their various products and services related to the economic applications of the conversion of solar energy for various useful purposes; and (4) to cooperate in, and contribute toward, the enhancement of widespread understanding of the various applications of solar energy conversion in order to increase their usefulness to society.

TESTIMONY BEFORE THE
HOUSE COMMITTEE ON FINANCE

Friday, February 19, 2010
11:00 a.m.
Conference Room 308, State Capitol

H.B. NO. 2642
RELATING TO UTILITIES REGULATION

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

Chair Oshiro, Vice-Chair Lee, and Members of the Committee:

My name is Kevin Katsura providing written testimony in support of H.B. No. 2642 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

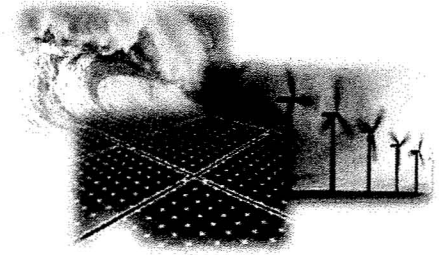
The Hawaiian Electric Companies strongly support this bill, which authorizes funding for the operation and staffing of the Public Utilities Commission (PUC) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (Consumer Advocate).

While we are not qualified to address the amount of funding required to fund all positions included in the reorganization approved by Act 177, Session Laws of Hawaii 2007, we can endorse the need for additional resources within the PUC and the Consumer Advocate.

From the Hawaiian Electric Companies' perspective, the workload of the PUC has never been greater, and our look at the future suggests the situation which presently exists is not a temporary one. The PUC's work in the electric utility sector includes general rate cases, project applications, and dockets initiated by the Commission in response to legislative action or external events. Each of these requires extensive review, and timely action beneficial to all involved. The Consumer Advocate is automatically a party to every docket involving the electric utility.

In addition, the PUC and the Consumer Advocate bear statutory responsibilities in the regulation of telecommunications, water and wastewater utilities, and water and motor carriers.

For these reasons, we support H.B. No. 2642 and request its passage. Thank you for the opportunity to provide testimony.



HOUSE COMMITTEE ON FINANCE

February 19, 2010, 11:00 A.M.

Room 308

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 2642

Chair Oshiro and members of the Committee:

The Blue Planet Foundation strongly supports House Bill 2642, a measure to ensure proper funding for the Public Utilities Commission (PUC) to complete their essential work, including funding to implement the reorganization approved by Act 177 (2007), including the reinstating and funding of the nine positions removed by Act 162 (2009).

This measure is critically important to Hawaii's clean energy future. The PUC is charged with developing and enforcing policies that govern the lifeblood of Hawaii's economy: electricity. They need to be properly funded to successfully navigate the multi-billion dollar transition to a clean energy future. The full amount of revenue generated in the special fund should be dedicated to the public utilities commission.

<u>Funds</u>	<u>FY 2008</u>	<u>FY 2009</u>
PUC special fund revenue	\$ 17,443,000	\$ 17,617,000
PUC budget	\$ 7,719,000	\$ 8,279,000
Transfers to general fund	\$ 9,724,000	\$ 9,339,000

Currently, the PUC is funded through the PUC special fund which collects funding from various sources, most significantly an annual fee of one-half of one per cent of the gross income of the public utility's previous year's business. Over half of the revenue in this special fund—which receives about \$17.5 million annually—is diverted to the state's general fund, however. For fiscal year 2009, of the \$17.6 million in revenue generated, \$8.3 million was expended by the PUC while \$9.3 was diverted to the state general fund. The PUC is currently deliberating

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dockets that will fundamentally reshape Hawaii's electric utility sector. Smart grid, utility decoupling, feed-in tariffs for clean energy, integrated resource planning—these dockets require thorough deliberation, research, and expert input. The PUC must have the talent and resources to adequately investigate and develop the right policies for Hawaii's 21st century electricity industry. The total funding available to them through their revenues should be available for their work.

The public utilities commission needs funding to navigate the multi-billion dollar transition to Hawaii's clean energy economy. Please forward HB 2642.

Thank you for the opportunity to testify.

WRITTEN TESTIMONY ONLY (IN SUPPORT)

HOUSE COMMITTEE ON FINANCE

**THE HONORABLE MARCUS R. OSHIRO, CHAIR
THE HONORABLE MARILYN B. LEE, VICE CHAIR**

HOUSE BILL NO. 2642 scheduled for hearing on February 19, 2010

**Testimony of Roy Catalani,
Vice President of Strategic Planning and Government Affairs,
Young Brothers, Limited**

Chair Oshiro, Vice Chair Lee, and Members of the House Finance Committee:

Thank you for the opportunity to testify on House Bill No. 2642 (**HB 2642**).

Young Brothers, Limited (*Young Brothers*) supports this bill.

The purpose of HB 2642 is to authorize sufficient funding for the operation and staffing of the Public Utilities Commission and the Division of Consumer Advocacy in order to accomplish the objectives of those agencies and fulfill the intent of their reorganization that was begun by Act 177 and Act 19 183, Session Laws of Hawaii 2007. Adequate staffing of both agencies is essential to the effective and efficient regulation of public utilities, including water carriers such as Young Brothers. Accordingly, sufficient funding to accomplish their respective missions is definitely in the public interest of the State of Hawaii.

Thank you for the opportunity to testify.



February 19, 2010

Honorable Marcus Oshiro, Chair
House Committee on Finance

RE: HB 2642 - Relating to Utilities Regulation - Support
FIN #2 – February 19, 2010, 11AM, Conference Room 308

Aloha Chair Oshiro, Vice Chair Lee, and Members of the Committee:

On behalf of tw telecom ("TWTC"), which has operated in Hawaii since 1994 and manages approximately 25,000 access lines in the State of Hawaii, I appreciate the opportunity to share our views on this matter. I am Lyndall Nipps, Vice President of Regulatory Affairs.

As a utility company that is regulated by Public Utilities Commission (PUC), we support the sufficient funding staffing for the PUC and the Division of Consumer Advocacy (DCA). While we know the State is currently faced with financial challenges, we believe that the recent budget and staffing cuts not only fail to protect the interests of both the utility companies and the respective consumers they serve, but do not translate into cost savings for the State.

The PUC and the DCA need to have the necessary staffing and resources for them to oversee all utility and related matters to ensure that the services utilities provide are reliable, safe and in the public interest. Although all utilities (and our ratepayers) contribute 100 percent of the funds required to operate the PUC and the DCA via the public utility fee, we understand that the PUC and DCA are currently working with limited staffing and resources, fully utilizing all available personnel to conduct the complex review and analysis required effectively regulating and overseeing Hawaii's utility companies.

We respectfully request your support of this bill.

Sincerely,

/s/

Lyndall Nipps
Vice President, Regulatory Affairs

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