

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO ELECTRICITY PRODUCERS.

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

1           SECTION 1. Electricity in Hawaii is supplied increasingly  
2 by non-utility power generators that use a variety of both  
3 fossil fuel and renewable energy resources. Electric utilities  
4 acquire third-party supplied energy via power purchase  
5 agreements that establish a final price for energy supplied  
6 throughout the entire contract term, which typically lasts for  
7 twenty years. Negotiated prices in purchased power agreements  
8 are reviewed by the public utilities commission, though the  
9 independent power producers' underlying cost data and associated  
10 assumptions are not typically disclosed to the commission.

11           Complete access to underlying renewable energy project cost  
12 information, including cost support information and associated  
13 materials, would allow the commission to better determine the  
14 reasonableness of proposed prices in the context of the local  
15 energy market, independently track trends in renewable energy  
16 project development, and more readily compare independent power  
17 producers' projects. More specific, detailed contract  
18 information can fundamentally shift the way renewable energy

1 project costs are currently set so that they move more closely  
2 in line with the actual costs of energy production, and are free  
3 of the influence of volatile fuel oil prices. In addition, more  
4 open and clear contract pricing information could potentially  
5 improve the financing environment for non-utility energy  
6 developers, thus benefiting the entire State through lower  
7 renewable energy project financing costs.

8 The purpose of this Act is to authorize the public  
9 utilities commission to examine all records, projections,  
10 business documents, and other necessary information relating to  
11 the review by the commission of power purchase agreements for  
12 the sale of electricity to a public utility.

13 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16 "§269- Power purchase agreements; records; confidential  
17 information. The public utilities commission shall have the  
18 authority to examine all documents, ledgers, records,  
19 projections, contracts, or any other information and data  
20 pertaining to the development, financing, taxation,  
21 construction, or operations and maintenance of a project in any  
22 power purchase agreement that has been submitted to the

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1 commission for review or approval, as the commission deems  
2 necessary, including the information and data of any third-party  
3 electricity producer seeking to sell electricity to a public  
4 utility as defined within section 269-1; provided that this  
5 section shall be effective to the extent it is not inconsistent  
6 with applicable federal law. The commission shall maintain the  
7 confidentiality of all information submitted under confidential  
8 seal and provided in accordance with this section."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act, upon its approval, shall take effect  
11 on July 1, 2013.

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INTRODUCED BY: 

14

BY REQUEST

# S.B. NO. 1043

**Report Title:**

Power Purchase Agreements; Third-party Electricity Producers;  
Independent Power Producers; Public Utilities Commission;  
Records; Business Records

**Description:**

Authorizes the Public Utilities Commission to examine all documents and other information and data deemed necessary for the review of power purchase agreements before the Commission, including financial records, projections, cost reports, and other material of third-party electricity producers seeking to sell power to a public utility under a power purchase agreement.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

SB. NO. 1043

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO ELECTRICITY PRODUCERS.

PURPOSE: To authorize the Public Utilities Commission ("Commission") to access various pertinent documents, records, and other information relating to the review and approval of power purchase agreements ("PPA"), including the information of third-party electricity producers who seek to sell electrical energy to public utilities.

MEANS: Add a new section to chapter 269, Hawaii Revised Statutes.

JUSTIFICATION: The Commission reviews and determines the disposition of PPAs for the sale of electrical energy in the State. However, not all of the most relevant and useful PPA cost information is submitted to the Commission, like cost studies and projections, which can be germane to determining whether a proposed PPA price is fair and reasonable. This measure will allow for more thorough PPA examinations by the Commission and may potentially lead to improved long-term electricity prices for ratepayers. The Commission can protect against public disclosure of PPA cost-related information under its existing confidentiality processes.

Impact on the public: The impact on the public will likely be positive. Non-utility electricity sellers and other parties will be protected by the Commission's confidentiality policies and procedures. Further, the Commission may find in reviewing all relevant cost information good reason for reducing the cost of electricity sold under PPAs.

Impact on the department and other agencies:  
Minimal impact is expected on the Department of Budget and Finance, or other agencies within the administration. The Commission should benefit in its examinations and deliberations from increased access to relevant PPA information.

New Day Plan Association: This proposal helps the State more comfortably break its dependence on oil used for electricity generation. The aim of this measure is to assist the Commission in determining the proper cost levels used to evaluate proposed PPA pricing. The benefit of heightened Commission access to relevant PPA information of all parties is the potential for lowered renewable energy costs for consumers as the State's clean energy requirements continue to increase.

GENERAL FUNDS: None.  
OTHER FUNDS: None.  
PPBS PROGRAM  
DESIGNATION: BUF 901.  
OTHER AFFECTED  
AGENCIES: None.  
EFFECTIVE DATE: July 1, 2013.