HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

H.B. NO. 2649 H.D. 1

A BILL FOR AN ACT

RELATING TO ENERGY.

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

SECTION 1. The legislature finds that Hawaii utility ratepayers have been forced to pay escalating prices for electricity under regulatory policies that financially incentivize the investor-owned utility monopoly to increase consumer costs. Under these conditions, in a competitive market, new companies would emerge to better serve customers with cheaper rates.

Over the last decade, energy efficiency, conservation, and increasingly cheaper solar panels have contributed to declining electricity consumption in Hawaii despite a growing population. While electricity sales have fallen nearly twelve per cent from one thousand twelve gigawatt-hours in 2006 to eight hundred ninety-eight gigawatt hours in 2014, investor-owned utility profits have escalated more than eighty-four per cent from $75,000,000 to over $138,000,000 annually, raising public anger reflected in news stories.

The growing contradiction between the investor-owned utility's shrinking electricity sales and soaring profits has left many customers wondering where their money is going. The exception to this profit escalation is the non-profit Kauai Island Utility Cooperative, which has been able to manage utility operations over the last decade with far fewer, and substantially less, base rate increases than each of the Hawaiian Electric Industries' electric utility companies. The public utilities commission has stated that investor-owned utility rates have skyrocketed in part because the Hawaiian Electric Industries' electric utility companies do not, by any discernible indications, appear to feel financially compelled to implement corresponding decreases in utility expenses to the extent that would occur with declining net revenues.

The legislature further finds that even when consumers attempt to save money by decreasing energy consumption, a policy known as decoupling forces ratepayers to pay for the value of electricity not consumed, among other things. A 2014 investigation by Honolulu Civil Beat found leaked documents from the public utilities commission revealing that Oahu residents are paying about an extra $95 per year, Maui residents are paying about an extra $57 per year, Hawaii island residents are paying about an extra $26 more per year, and Molokai and Lanai residents are paying about an extra $38 per year because of decoupling policies.

The legislature finds that current policies also allow investor-owned utilities to profit from new infrastructure spending while passing these costs to ratepayers. This serves as an incentive to increase infrastructure spending to boost profits, which further inflates ratepayer bills. The Wall Street Journal found that "the more [utilities] spend, the more profits they earn," and called it "a regulatory system that turns corporate accounting on its head." Achieving the State's one hundred per cent renewable portfolio standard requires grid upgrades and investment. However, this necessity should not be a blank check for utilities to justify massive new spending. Regulatory policies must change to ensure utilities maximize public benefit, reduce ratepayer risk, and meet Hawaii's energy goals at the lowest cost to consumers.

While reviewing these policies, the public utilities commission found that it is difficult to ascertain whether the Hawaiian Electric Industries' electric utility companies' increasing capital investments are strategic investments or simply a series of unrelated capital projects that effectively expand utility rate base and increase profits while appearing to provide little or limited long-term customer value. With investor-owned utilities passing on nearly all infrastructure costs to ratepayers, the public utilities commission stated that as risk is currently allocated, there does not appear to be an effective incentive for the Hawaiian Electric Industries' electric utility companies to control certain costs, including baseline project costs.

On November 4, 2015, the public utilities commission, for a second time, rejected the investor-owned utilities' plans for future infrastructure spending because the commission is concerned that the implicit deal in the Hawaiian Electric Industries' electric utility companies' preferred plans appears to favor the financial interests of the companies while providing less prominent and less certain benefits for customers. The commission explained that the Hawaiian Electric Industries' electric utility companies appear to have included resources with higher costs and uncertain feasibility at the expense of other lower-cost renewable sources that could be developed sooner and with lower development risk.

Finally, the public utilities commission concluded that the Hawaiian Electric Industries' electric utility companies' prominent claim that the power supply improvement plan would result in twenty per cent residential bill reductions is a selectively limited and potentially misleading characterization of the supporting analyses. Closer examination indicates that the power supply improvement plan costs and rates would increase for Hawaiian Electric Company, and would not decrease substantially for the Maui Electric Company and the Hawaii Electric Light Company.

The legislature finds that investor-owned utilities in Hawaii and around the nation have operated on largely the same business model for over a century. However, that is rapidly changing with the growth of alternative renewable energy technology, spurring a paradigm shift in new competition and energy economics. To satisfy shareholder expectations, investor-owned utilities have been forced to make up for lost revenue as a result of declining electricity sales by boosting profits through increasing infrastructure spending and other current policies that can needlessly inflate ratepayer costs. The public utilities commission has stated that the Hawaiian Electric Industries' electric utility companies appear not to be moving toward the sustainable business model necessary to address technological advancements and increasing customer expectations, and that to date, the utility displays insufficient urgency in addressing this rapidly changing business environment.

The legislature finds that it has an obligation to place the interests of the people first. Maximizing public benefit likely means a transition to utility models that place the interests of the people first. However, until a utility model transformation takes place, it is imperative to align investor-owned utility regulatory policies with customers' interests and the State's public policy goals before billions of dollars in additional costs are added to ratepayer electric bills.

The legislature finds the responsibility of aligning investor-owned utility regulatory policies with customers' interests and the State's public policy goals is not limited to the public utilities commission, but more broadly rests with the State and county governments that represent the public interest.

The regulatory framework under which utilities operate and the scope of regulation by the public utilities commission are established by the legislature, which holds the exclusive authority to issue, amend, or revoke franchise rights which permit utilities to operate in the State.

The purpose of this Act is to protect ratepayers from potentially unnecessary additional costs by requiring that electric utility rates are considered just and reasonable only if the rates are derived from an earnings impact mechanism developed by the public utilities commission.

SECTION 2. This Act shall be known as the Hawaii Ratepayer Protection Act.

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§269- Performance incentive mechanisms.** On or before January 1, 2020, the public utilities commission shall establish performance incentive mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics. In developing performance incentive mechanisms and performance metrics, the public utilities commission's review of electric utility performance may include but is not limited to the following:

(1) Compliance with the State's renewable portfolio standards;

(2) Electric rate affordability;

(3) Electric service reliability;

(4) Levels of customer service;

(5) Utility system information access, including but not limited to public access to electric system planning data and aggregated customer energy usage data;

(6) Integration of renewable energy sources, including customer-sited generation; and

(7) Timely execution of competitive procurement processes."

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that the public utilities commission may delay the implementation of the requirements of this Act until no later than January 1, 2020.

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Report Title:
Public Utilities Commission; Electric Utilities; Rates

Description:
Requires the PUC to establish performance incentive mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics. Effective upon approval, but allows PUC to delay implementation until no later than January 1, 2020. (HB2649 HD1)

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