

JAN 23 2015

A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that power purchase
2 agreements, entered into by electric utilities and approved by
3 the public utilities commission, frequently prohibit power
4 producers from selling energy to third parties, even if that
5 energy is being curtailed and not purchased by the utility. The
6 legislature further finds that it is not in the public interest
7 for the public utilities commission to approve power purchase
8 agreements that promote the waste of energy in this way. Rather
9 than being wasted, curtailed energy could serve the people of
10 Hawaii by being converted into clean fuels such as hydrogen,
11 stored for later use, or otherwise used in a productive manner.

12 The purpose of this Act is to prohibit the public utilities
13 commission from approving power purchase agreements that
14 prohibit the sale of energy to third parties or require utility
15 consent to sell energy to third parties.

16 SECTION 2. Section 269-16.22, Hawaii Revised Statutes, is
17 amended to read as follows:



1 "§269-16.22 Power purchase agreements; cost recovery
2 for electric utilities; sale of energy to third party. (a)
3 All power purchase costs, including costs related to capacity,
4 operations and maintenance, and other costs that are incurred by
5 an electric utility company, arising out of power purchase
6 agreements that have been approved by the public utilities
7 commission and are binding obligations on the electric utility
8 company, shall be allowed to be recovered by the utility from
9 the customer base of the electric utility company through one or
10 more adjustable surcharges, which shall be established by the
11 public utilities commission. The costs shall be allowed to be
12 recovered if incurred as a result of such agreements unless,
13 after review by the public utilities commission, any such costs
14 are determined by the commission to have been incurred in bad
15 faith, out of waste, out of an abuse of discretion, or in
16 violation of law. For purposes of this section, an "electric
17 utility company" means a public utility as defined under section
18 269-1, for the production, conveyance, transmission, delivery,
19 or furnishing of electric power.

20 (b) The public utilities commission shall not approve any
21 power purchase agreement, nor approve any amendment,



1 modification, or renewal of any power purchase agreement, if the
2 power purchase agreement prohibits the sale of energy to third
3 parties or requires utility consent to sell energy to third
4 parties."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on July 1, 2015.

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Report Title:

Public Utilities Commission; Power Purchase Agreements;
Curtailed Energy

Description:

Prohibits the public utilities commission from approving power purchase agreements that prohibit the sale of energy to third parties or require utility consent to sell energy to third parties.

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