

TESTIMONY OF RANDY IWASE
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

February 18, 2015
3:00 p.m.

MEASURE: H.B. No. 619

TITLE: Relating to the Merger, Acquisition, and Consolidation of Electric Utilities

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

DESCRIPTION:

This measure proposes to amend Section 269-19, Hawaii Revised Statutes, to require the Public Utilities Commission (“Commission”) to apply certain standards and criteria when evaluating applications for certain transactions brought forth by electric utilities. This measure would also require that a special public hearing and intervention process be used for such transactions.

POSITION:

The Commission offers the following comments for the Committee’s consideration.

COMMENTS:

The Commission notes that broad statutory principles, such as those articulated in Section 2, subsections (b)(1) and (2), can be helpful in providing policy guidance to the Commission as it evaluates applications for the merger and consolidation of major public utilities. The Commission also agrees that interested parties should be afforded a reasonable opportunity to be heard in applications for the merger and consolidation of major public utilities.

The Commission raises a concern if the intent is for this measure is to be applied retroactively to dockets presently before the Commission. Such retroactive application may raise legal questions.

Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2015 9:24 AM
To: CPCtestimony
Cc: leslie.cole-brooks@hsea.org
Subject: *Submitted testimony for HB619 on Feb 18, 2015 15:00PM*

HB619

Submitted on: 2/17/2015

Testimony for CPC on Feb 18, 2015 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leslie Cole-Brooks	Hawaii Solar Energy Association	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Committee on Consumer Protection and Commerce

Representative Rep. Angus L.K. McKelvey, Chair, Rep. Justin H. Woodson, Vice Chair

Wednesday February 18, 2015, 3:00 P.M., Conference Room 325

HB619 HD1 RELATING TO THE MERGER, ACQUISITION, AND CONSOLIDATION OF ELECTRIC UTILITIES

TESTIMONY

Nancy Davlantes, Legislative Committee Member, League of Women Voters of Hawaii

Chair McKelvey, Vice-Chair Woodson, and Committee Members:

The League of Women Voters of Hawaii supports HB619 HD1 which strongly encourages the Public Utilities Commission and Division of Consumer Advocacy to apply certain standards and criteria and hold a public hearing to determine whether to approve a merger, acquisition, or consolidation of an electric utility.

The League believes this is an important question for the entire state, and we think citizens have a right to know more about the proposed transaction. It is incumbent on the legislature to protect the citizen's right to know and facilitate citizen participation in government decision making. Currently there is no state law that requires the Public Utilities Commission to hold a public hearing regarding the proposed NextEra takeover of HECO. Yet a public hearing is an important ingredient in any decision-making and would not inhibit the PUC's role in considering the merger.

Furthermore, the legislature, as well as the PUC, has an important responsibility to determine whether or not such a merger is in the public interest, and public participation is essential to assist in making that determination.

We urge you to pass this bill. Thank you for the opportunity to submit testimony.

Testimony before the House Committee on Consumer Protection and Commerce

**By Alan M. Oshima
President and Chief Executive Officer
Hawaiian Electric Company**

February 18, 2015

**House Bill 619 HD1
Relating to the Merger, Acquisition and Consolidation of Electric Utilities**

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

My name is Alan Oshima and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company, in opposition to HB 619 HD1.

In the summer of 2014, Hawaiian Electric set in motion a companywide transformation effort that will change the way we do business and, even more important, deliver the value and results our customers want. Our goals are among the most ambitious in the nation, including increasing our renewable energy portfolio to 65 percent, tripling distributed solar, and lowering customer bills 20 percent by 2030. As you know, on December 3, 2014, Hawaiian Electric Industries announced that it will combine with NextEra Energy, the nation's leading clean energy company. NextEra Energy is committed to Hawaiian Electric's vision of increasing renewable energy, modernizing its grid, reducing Hawaii's dependence on imported oil, integrating more rooftop solar energy and, importantly, lowering customer bills.

On January 29, 2015, Hawaiian Electric and NextEra Energy filed a joint application with the Public Utilities Commission (PUC) requesting approval of the proposed merger. The filing describes the companies' commitments to Hawaiian Electric's communities, employees and customers for enhancing service reliability, continuing community and charitable support, continuing to locally manage Hawaiian Electric's utilities from their existing operating locations, delivering savings and value for customers, and strengthening and accelerating a cleaner energy future. Highlights of the application include a commitment to not file a request

with the PUC for a general base rate increase for at least four years post-transaction close and approximately \$60 million in quantified customer savings, both subject to approval of certain conditions.

We welcome a thorough review of the proposed merger and we look forward to the opportunity to share with the PUC and Consumer Advocate how, together, our companies will help Hawaii achieve its vision of a more affordable clean energy future. However, the PUC already has well-established authority to review this proposed merger and it should have reasonable discretion to decide how to conduct its review under the circumstances particular to a given application. HB 619 unduly constrains that discretion.

HRS § 269-19 gives the PUC broad authority to review mergers involving Hawaii utilities. In addition HRS § 269-7(a) gives the PUC the authority to examine, among other things, the condition of a public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the utility's business relations with other persons, companies, or corporations, and all matters affecting the relations and transactions between the utility and the public or person or corporations. Thus, the PUC already has the authority to examine all transactions that affect or may affect the public served by the utility. Generally, as a result of its review, the PUC will make a determination whether (1) the acquiring utility is fit, willing, and able to perform the service currently offered by the utility to be acquired, and (2) the acquisition is reasonable and in the public interest.

The answers to these questions are necessarily dependent on the particular facts and circumstances of each proposed merger. The issues that should be evaluated with respect to these questions should not be prescribed for every case. Dictating a multitude of specific factors to be considered could result in inefficient management and progression of the docket, which is counter to public policy. Within the established broad parameters of issues to resolve (i.e., whether the merger would be in the public interest and whether the post-merger utility will be fit, willing and able to serve), the PUC should retain discretion to decide the most efficient and effective manner in which to manage the docket. This includes deciding the sub-issues to explore and deciding whether participation by interveners will meaningfully aid evaluation of issues in the docket.

We also share the legislature's view of the need to obtain public input on the proposed merger. The PUC has received public comment in similar transactions in the past, including the sale of Kauai Electric and Verizon. The Commission should retain the discretion to determine how best to do so now and in the future, again, based on the particular circumstances involved.

In addition, the Hawaiian Electric companies and NextEra Energy are committed to holding other informational meetings on the islands of Oahu, Maui, Molokai, Lanai and Hawaii for the purpose of obtaining public input and sharing with customers on how this merger will benefit Hawaii. In light of the Commission's existing statutory authority to review and determine whether a proposed merger is reasonable and in the public interest, combined with our willingness to obtain public input through the PUC approval process as well as through our public informational meetings, we believe that this legislation is unnecessary.

For the reasons stated above, we respectfully oppose this legislation. Thank you for the opportunity to testify on this matter.



**TESTIMONY OF ERIC S. GLEASON, NEXTERA ENERGY
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

FEBRUARY 18, 2015, 3:00 PM

**HOUSE BILL 619, H.D. 1 - RELATING TO THE MERGER, ACQUISITION AND
CONSOLIDATION, OF ELECTRIC UTILITIES**

DESCRIPTION:

This measure proposes to require the Hawaii Public Utilities Commission (PUC or Commission) to apply certain standards and criteria and encourages a public hearing to determine whether to approve a merger, acquisition, or consolidation of an electric utility, and whether to approve a wide variety of other proposed business transactions by electric utilities.

POSITION:

NextEra Energy respectfully opposes H.B. 619, H.D.1 and offers the following comments.

COMMENTS:

NextEra Energy shares Hawaiian Electric's vision of increasing renewable energy, modernizing its grid, reducing Hawaii's dependence on imported oil, integrating more rooftop solar energy and, importantly, lowering customer bills. We are excited by the opportunity to strengthen and accelerate the Hawaiian Electric Companies' (Hawaiian Electric, Maui Electric and Hawaii Electric Light) clean energy transformation and believe customers will benefit substantially from the combined company.

If enacted by the Legislature, H.B. 619 H.D.1 may result in unintended consequences adverse to the public interest by unduly limiting and restricting the Commission in how it can address changes of control as well as a wide variety of other electric regulatory issues. Many of the principles, standards or elements listed in this measure may become inapplicable and/or outdated over time due to, among other things, changes in

technologies, policies, etc. The Commission must have adequate regulatory flexibility to balance and address these types of issues as it deems necessary at any given time (i.e., now and in the future) to ensure that the subject transaction is reasonable and in the public interest.

Hawaii law (HRS Chapter 269) already provides the PUC with full authority and discretion to determine whether any utility merger, acquisition or consolidation of any Hawaii utility is reasonable and in the public interest. We believe there is no need for a new law specific to solely electric utility mergers, acquisitions or consolidations. Similarly, there is no need to increase the burden for electric utilities of obtaining additional new approvals and to extend additional approval requirements, limitations and restrictions on the PUC's work relating to all electric utilities.

RECOMMENDATION:

For the reasons indicated above, NextEra Energy respectfully requests that this measure be held, as we believe it is not needed, and if implemented, could have a detrimental effect on Hawaii's clean energy transformation.

While NextEra Energy opposes H.B. 619, we do understand the importance of giving the public the opportunity to engage with us about our proposed combination. Therefore, NextEra Energy is committed to jointly coordinate with the Hawaiian Electric Companies to hold informational meetings on the islands of Oahu, Maui, Molokai, Lanai and Hawaii about the proposed combination, and obtaining community input and feedback concerning the proposed combination.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 16, 2015 11:39 AM
To: CPCtestimony
Cc: ndavlantes@aol.com
Subject: *Submitted testimony for HB619 on Feb 18, 2015 15:00PM*

HB619

Submitted on: 2/16/2015

Testimony for CPC on Feb 18, 2015 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 17, 2015 8:49 AM
To: CPCtestimony
Cc: burgharc@gmail.com
Subject: Submitted testimony for HB619 on Feb 18, 2015 15:00PM

HB619

Submitted on: 2/17/2015

Testimony for CPC on Feb 18, 2015 15:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Comments Only	No

Comments: If this relates to HECO and the merging with the FPL/company, then by all means reject and do not let the Florida company into our islands. Please examine carefully. It is wrong.

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LATE

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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CATHERINE P. AWAKUNI COLÓN
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JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

WEDNESDAY, FEBRUARY 18, 2015
3:00 p.m.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 619, H.D. 1 - RELATING TO THE MERGER, ACQUISITION, AND
CONSOLIDATION OF ELECTRIC UTILITIES

DESCRIPTION:

This measure proposes to strongly encourage the Public Utilities Commission ("PUC") and Division of Consumer Advocacy to apply certain standards and criteria and hold a public hearing to determine whether to approve a merger, acquisition, or consolidation of an electric utility.

POSITION:

The Division of Consumer Advocacy offers the following comments to this bill.

COMMENTS:

The Consumer Advocate appreciates the Legislature's concern over the pending NextEra/Hawaiian Electric merger application. Any bill that attempts to define "public interest" and "fit, willing, and able" to establish a standard of review by which the PUC is to analyze mergers and acquisitions should be broad enough to apply to all regulated utility mergers and should not be focused solely on one particular merger.

The Consumer Advocate is of the opinion that the PUC needs to have the flexibility and discretion in determining the appropriate level of analysis for each particular merger or acquisition that comes before it. Any legislation that attempts to modify the PUC's flexibility and discretion should be approached cautiously to avoid unintended consequences. By prescribing the specific factors that the PUC needs to consider in evaluating an electric utility merger and acquisition, may lead to an argument by a party to the docket that these are the only factors that can be considered. It is a principle of statutory interpretation that where matters are specifically included in legislation, anything that is not specified was meant to be excluded. Therefore, the Legislature should consider modifying the language to include the phrase "including, but not limited to" such that HRS § 269-19(b) would read in relevant part, "In their evaluation of the application, the commission and division of consumer advocacy shall consider, including but not limited to, the following factors:".

Thank you for this opportunity to testify.



LATE

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 18, 2015, 3:00 P.M.

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 619, HD1

Aloha Chair McKelvey and Members of the Committee:

The Alliance for Solar Choice (TASC) supports HB 619 (HD1), relating to the merger process for electric utilities. TASC advocates for maintaining successful distributed solar energy policies and markets throughout the United States. TASC members collectively serve a majority of the solar customers in Hawaii.

Drafting good merger policy suffers from a too early/too late problem. When there is no merger on the horizon, no one considers what is a fairly arcane aspect of regulatory law. When a merger is proposed, any changes to the existing merger policies is criticized as being “too late.”

To this end, it is important to note this bill does not significantly change existing Public Utility Commission (“Commission”) authority or precedent, but rather it clarifies the Commission’s pre-existing authority regarding mergers, acquisitions or consolidations. It also ensures the Commission has the statutory authority to ensure that a merger is in the public interest and to impose conditions accordingly.

Existing Commission standards should be placed into law. Such clarity avoids unnecessary litigation over the scope of the Commission’s authority or ability to impose conditions. It defines the public interest standard based on clear Commission precedent, to wit, that the Commission should consider (1) affordability; (2) safety and reliability; (3) customer choice; (4) clean energy adoption; and (5) economic benefits to the state. These standards are not controversial, and the grant of statutory authority ensures the Commission will not be challenged at a later date.

Finally, this bill correctly sets a clear policy direction that the legislature supports public participation in critical merger discussions. This is simply smart policy. The public impacted should have the right to offer their input.

Thank you for the opportunity to submit this testimony.