
A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

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

1 SECTION 1. The public utilities commission has recently
2 opined that: "Since HRS §269-19 does not contain specific
3 criteria or standards for the commission to consider in the
4 transfer or assignment of a franchise, the commission
5 historically, in its review of applications for the sale of
6 public utility assets and the transfers of certificates of
7 public convenience and necessity (CPCN) and franchises, pursuant
8 to HRS §269-19, has utilized the same standards of review found
9 at HRS §269-7.5 for guidance, to wit, that the applicant is
10 "fit, willing, and able properly to 'perform the service
11 proposed.'"

12 However, the consumer advocate noted that other mergers of
13 major utilities have reached settlement agreements stipulating
14 that a "substantial net benefit" exists for the merger. The
15 legislature finds that there is a need to implement public
16 policy guidelines regarding the "substantial net benefit"



1 standard that are flexible enough to address the unique
2 character of each merger transaction.

3 The legislature finds that rather than review the NextEra
4 proceedings and begin with a proposal for takeover under a
5 status quo "no net harm" standard, future merger proceedings
6 should begin under a commission defined standard of substantial
7 net benefit and as such may help prospective utilities produce a
8 viable deal better in line with consumer interests and save
9 significant time and cost, and will ensure the interests of the
10 people are made a priority.

11 The purpose of this Act is to adopt "substantial net
12 benefit" as the standard for a merger involving an electric
13 public utility and allow the public utilities commission to
14 establish reasonable criteria to determine whether a
15 "substantial net benefit" exists in any proposed merger
16 involving an electric public utility.

17 SECTION 2. Section 269-19, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§269-19 Merger and consolidation of public utilities.**

20 (a) Except as provided in subsection (b), no public utility
21 shall sell, lease, assign, mortgage, or otherwise dispose of or



1 encumber the whole or any part of its road, line, plant, system,
2 or other property necessary or useful in the performance of its
3 duties to the public, or any franchise or permit, or any right
4 thereunder, nor by any means, directly or indirectly, merge or
5 consolidate with any other public utility without first having
6 secured from the public utilities commission an order
7 authorizing it so to do. Every [~~such~~] sale, lease, assignment,
8 mortgage, disposition, encumbrance, merger, or consolidation[~~7~~]
9 made other than in accordance with the order of the commission
10 shall be void.

11 (b) A public utility, under circumstances that it deems
12 exigent and in its judgment require a response that rapidly
13 restores one of its customers to normal, or near normal,
14 operating status in order to prevent serious disruption of
15 essential public services, or to avoid serious risk to public
16 safety, or to mitigate severe economic losses to that customer,
17 may transfer, assign, or otherwise dispose of its property
18 without prior approval from the public utilities commission as
19 required in subsection (a); provided that in so doing:



- 1 (1) The public utility does not unduly hinder or degrade
2 the public utility's operation with respect to its
3 services or other customers;
- 4 (2) The public utility is duly compensated for its
5 property; and
- 6 (3) The public utility reports in detail to the public
7 utilities commission within thirty days of any [~~such~~
8 ~~action~~] transfer, assignment, or other disposal of
9 property, unless otherwise approved by the public
10 utilities commission for good cause shown.

11 For purposes of this subsection, "property" does not
12 include real property.

13 (c) The specific standard for the public utilities
14 commission to consider in any merger involving an electric
15 public utility shall be substantial net benefit. The public
16 utilities commission may establish reasonable criteria to
17 determine whether a substantial net benefit exists for any
18 merger involving an electric public utility."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect on January 28, 2081.



Report Title:

Public Utilities Commission; Merger

Description:

Establishes "substantial net benefit" as the public utilities commission's standard for a merger involving an electric public utility and allows the commission to establish reasonable criteria to determine whether a "substantial net benefit" exists in a proposed merger involving an electric public utility.

(HB1566 HD2)

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