

JAN 24 2018

A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. In 2014, the public utilities commission issued
2 a landmark set of "Inclinations on the Future of Hawaii's
3 Electric Utilities: Aligning the Utility Business Model with
4 Customer Interests and Public Policy Goals". Those Inclinations
5 provided "perspectives on the vision, business strategies and
6 regulatory policy changes required to align the HECO Companies'
7 business model with customers' interests and the State's public
8 policy goals".

9 The legislature finds that improving the alignment of
10 utility customer and company interests is critical to ensuring
11 that Hawaii's residents and businesses do not suffer economic
12 and environmental harm from the State's energy systems. At the
13 same time, this realignment is critical to ensure the ongoing
14 viability of the State's regulated electric utilities, as they
15 face an increasing need to rapidly adapt business models and
16 strategies to enable new innovations and customer choices.



1 Furthermore, the legislature finds that this realignment
2 has entered a period of extraordinary urgency. The commission's
3 Inclinations noted that the State's utilities must rapidly
4 create a twenty-first century generation system, modernize
5 transmission and distribution grids, and implement new rate
6 structures in concert with changes to the outdated regulatory
7 compact. The legislature agrees with the public utilities
8 commission that "electric utilities need to move with urgency to
9 modernize the generation system on each island grid as delays
10 are lost savings opportunities".

11 To that end, some of the State's utilities have recently
12 proposed modernization plans. Those plans would ultimately
13 result in a dramatic reduction in fossil fuel consumption, as
14 those fuels are replaced by renewable energy resources.
15 However, this shift would be accompanied by an equally dramatic
16 shift in how utility revenues are expended. As fewer funds are
17 spent to purchase fossil fuels, those funds will be redirected
18 to capital projects. This is a benefit to residents and
19 businesses, insofar as fixed-cost renewable energy projects can
20 reduce the risk of consumers facing volatile fossil fuel costs.



1 Renewable energy resources have also entered a new paradigm
2 where they can lower energy costs in comparison to fossil fuels.

3 However, the existing regulatory compact rewards utilities
4 for increasing capital expenditures by basing allowed revenues
5 on the value of the rate base, irrespective of utility
6 performance. This same business and revenue model has been in
7 place for over a century. The Wall Street Journal explained
8 that "the more [utilities] spend, the more profits they earn",
9 and called this "a regulatory system that turns corporate
10 accounting on its head".

11 The legislature finds that it is justified to be concerned
12 that the existing regulatory compact misaligns the interests of
13 customers and utilities because it may result in a bias toward
14 expending utility capital on utility-owned or funded projects.
15 These projects may displace more efficient or cost-effective
16 options, such as distributed energy resources owned by
17 customers, or projects implemented by independent third parties.
18 With extraordinary urgency, the legislature must ensure that the
19 regulatory compact will change to promote decisions and
20 strategies that will maximize public benefit, reduce ratepayer
21 risk, and meet Hawaii's energy goals.



1 The legislature finds that, although some utility
2 performance incentives are being considered in existing dockets
3 at the public utilities commission, any resulting performance
4 incentives have not been transformative in urgently moving
5 electric utilities towards the State's ambitious energy policy
6 goals. The legislature further finds that the responsibility
7 for aligning investor-owned utility regulatory policies with
8 customers' interests and the State's public policy goals is not
9 limited to the public utilities commission, but more broadly
10 rests with the State and county governments that represent the
11 public interest. The regulatory framework under which utilities
12 operate and the scope of regulation by the public utilities
13 commission are established by the legislature, which holds the
14 exclusive authority to issue, amend, or revoke franchise rights
15 that permit utilities to operate in the State.

16 The purpose of this Act is to protect consumers by urgently
17 and proactively ensuring that the existing utility business and
18 regulatory model is updated for the twenty-first century by
19 requiring that electric utility rates be considered just and
20 reasonable only if the rates are derived from a performance-
21 based model for determining utility revenues.



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

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

6 "§269- Performance incentive mechanisms. On or before
7 January 1, 2020, the public utilities commission shall establish
8 performance incentive and penalty mechanisms that directly tie
9 electric utility revenues to a utility's achievement on
10 performance metrics and break the direct link between allowed
11 revenues and investment levels. Once established, such
12 performance incentives and penalties, as may be amended by the
13 public utilities commission from time to time, shall apply to
14 all regulation of electric utility rates under section 269-16.

15 In developing performance incentive and penalty mechanisms,
16 the public utilities commission's review of electric utility
17 performance shall consider but not be limited to the following:

18 (1) The economic incentives and cost-recovery mechanisms
19 described in section 269-6(d);

20 (2) Exceeding the State's renewable portfolio standards as
21 described in section 269-92;



- 1 (3) Electric rate affordability and ratepayer volatility
2 risk;
- 3 (4) Electric service reliability;
- 4 (5) Customer engagement and satisfaction, including
5 customer options for managing electricity costs;
- 6 (6) Access to utility system information, including but
7 not limited to public access to electric system
8 planning data and aggregated customer energy usage
9 data, and individual access to granular information
10 about one's own energy usage data;
- 11 (7) Rapid integration of renewable energy sources,
12 including quality interconnection of customer-sited
13 resources;
- 14 (8) Timely execution of competitive procurement, third-
15 party interconnection, and other business processes;
16 and
- 17 (9) Fair compensation for utility employees."

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2018;

20 provided that the public utilities commission may delay the



1 implementation of the requirements of this Act until no later
2 than January 1, 2020.

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INTRODUCED BY:

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S.B. NO. 2439

Report Title:

Ratepayer Protection Act; Public Utilities Commission; Electric Utilities Board

Description:

Requires the public utilities commission to establish performance incentive and penalty mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics. Allows the public utilities commission to delay implementation until no later than January 1, 2020.

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