THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.B. NO. 2939 S.D. 1

A BILL FOR AN ACT

RELATING TO ENERGY.

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

SECTION 1. In 2014, the public utilities commission issued a landmark white paper titled "Commission's Inclinations on the Future of Hawaii's Electric Utilities: Aligning the Utility Business Model with Customer Interests and Public Policy Goals". The white paper offered "perspectives on the vision, business strategies and regulatory policy changes required to align the HECO Companies' business model with customers' interests and the state's public policy goals".

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

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system, modernize transmission and distribution grids, and implement new rate structures in concert with changes to the outdated regulatory compact.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

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

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

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

The legislature additionally finds that it is justified to be concerned that the existing regulatory compact misaligns the interests of customers and utilities because it may result in a bias toward expending utility capital on utility-owned or funded projects. These projects may displace more efficient or cost-effective options, such as distributed energy resources owned by customers or projects implemented by independent third parties.

The legislature concludes that it must ensure a change to the regulatory compact to promote decisions and strategies that will maximize public benefit, reduce ratepayer risk, and meet Hawaii's energy goals.

The legislature also finds that, although some utility performance incentives are being considered in existing dockets at the public utilities commission, any resulting performance incentives have not been transformative in urgently moving electric utilities toward the State's ambitious energy policy goals. The legislature further finds that the responsibility for 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 that permit utilities to operate in the State.

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

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 part I to be appropriately designated and to read as follows:

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

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

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

(2) Volatility and affordability of electric rates and bills that customers are asked to pay;

(3) Electric service reliability;

(4) Customer engagement and satisfaction, including customer options for managing electricity costs;

(5) Access to utility system information, including but not limited to public access to electric system planning data and aggregated customer energy usage data, and individual access to granular information about an individual's own energy usage data;

(6) Rapid integration of renewable energy sources, including quality interconnection of customer-sited resources; and

(7) Timely execution of competitive procurement, third-party interconnection, and other business processes.

(c) This section shall not apply to a member-owned cooperative electric utility."

SECTION 4. New statutory material is underscored.

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

Report Title:
Ratepayer Protection Act; Public Utilities Commission; Electric Utilities; Performance Incentive and Penalty Mechanisms

Description:
On or before January 1, 2020, 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. Exempts member-owned cooperative electric utilities. (SD1)

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