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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Energy and Environmental Protection
Tuesday, January 29, 2019
8:30 a.m.
State Capitol, Conference Room 325**

**On the following measure:
H.B. 72, RELATING TO MICROGRID CERTIFICATES
OF PUBLIC CONVENIENCE AND NECESSITY**

Chair Lowen and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director for the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department appreciates the intent and offers comments on this bill.

The purpose of this bill is to allow microgrid owners and operators to file for a certificate of public convenience and necessity.

The interest in microgrids is growing, and a number of microgrids already exist in Hawaii. Almost all of these grids are interconnected with the electric grid, and none of them are regulated by the Public Utilities Commission (PUC). The Consumer Advocate supports the bill's apparent intent to collect information that will inform future decisions about microgrids, the electric grid, and more importantly, how customers served by the electric grid and microgrids can be best protected.

The Consumer Advocate is concerned that if proper precautions are not taken, customers of microgrids may not fully understand the nature of the services for which they are paying or recognize all the advantages and disadvantages of being a microgrid customer. The Consumer Advocate is also concerned about the potential impact on electric grid customers who may be required to subsidize microgrid owners and customers.

The PUC is currently investigating the establishment of a microgrid tariff in Docket No. 2018-0163 and has heard presentations by microgrid installers, microgrid operators, and other interested stakeholders. However, additional procedural steps must occur before the PUC can issue an order in this proceeding. The need for microgrid owners and operators, and not the electric utility, to obtain a certificate of public convenience and necessity would be best assessed as part of this ongoing investigation. Thus, the Consumer Advocate respectfully urges the Legislature to hold this measure until the PUC has an opportunity to complete Docket No. 2018-0163.

If, however, the Committee wishes to move this bill forward, the Consumer Advocate suggests modifying the bill's language to require microgrid owners and operators who serve customers not located on property with a renewable energy system to obtain a certificate of public convenience and necessity. Merely allowing a microgrid operator or owner to seek a certificate may result in no meaningful response, as most operators and owners would decline to obtain a certificate. Further, the proposed modification that distinguishes microgrids that serve customers who are not on the same property as the renewable energy system would avoid conflict with utility exemptions in Hawaii Revised Statutes sections 269-1(M) and (N).

Thank you for the opportunity to testify on this bill.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION

January 29, 2019
8:30 a.m.

Chair Lowen and Members of the Committee:

MEASURE: H.B. No. 72

TITLE: RELATING TO MICROGRID CERTIFICATES OF PUBLIC
CONVENIENCE AND NECESSITY.

DESCRIPTION: Allows microgrid owners and operators to file for a certificate of public convenience and necessity.

POSITION:

The Public Utilities Commission offers the following comments for consideration.

COMMENTS:

Pursuant to Act 200 SLH 2018, the Public Utilities Commission (“Commission”) opened Docket No. 2018-0163 to investigate establishing a microgrid services tariff. Consistent with the intent of Act 200, the Parties to Docket No. 2018-0163 are exploring ways to streamline and standardize interconnection of microgrids to the wider electricity network, while ensuring microgrids are fairly charged for services received from the grid and are fairly compensated for services provided to the grid.

On January 9, 2019, the Commission held a technical conference with microgrid developers and operators, the Hawaiian Electric Companies, and other key stakeholders. According to the schedule for this proceeding, the Parties to the docket will file Opening Briefs by February 8 with any Reply Briefs due by March 11.

The Commission notes that Section 2 of this bill requires the Commission to adopt rules pursuant to chapter 91 to establish minimum standards for microgrid certificates of public

convenience and necessity. Should the Legislature pass this measure, the Commission respectfully recommends the Commission be permitted the flexibility to implement this measure by rule or order.

Thank you for the opportunity to testify on this measure.



TESTIMONY REGARDING HB 72

**being heard by the House Committee on Energy and Environmental Protection
on Tuesday, January 29, 2019 at 8:30 a.m.**

Aloha Chair Lowen and Members of the Committee:

Thank you for the opportunity to provide testimony regarding HB 72, which would allow microgrid owners and operators to file an application for a microgrid certificate of public convenience and necessity (CPCN) as well as direct the PUC to establish the minimum standards for the issuance of a CPCN. At this time, Tesla is opposed to this bill owing to the lack of clarity on the specific problem it seeks to solve and the potential to misconstrue the language in the bill as expanding the circumstances for when a CPCN may be required.

Tesla's mission is to accelerate the world's transition to sustainable energy. Microgrids are among the solutions that Tesla develops and deploys on behalf of its customers, recognizing the important role they can play both in facilitating the integration of renewable energy resources, as well as providing resiliency and back-up services.

The bill appears to be based on the premise that if a non-regulated microgrid seeks to interconnect to the utility grid, it would or could become regulated and require the microgrid operator to file for and receive a CPCN before proceeding. However, Tesla does not believe this premise is settled fact and is deeply concerned that it prejudices what is still an evolving area of regulation. Additionally, in discussing what constitutes a microgrid and thus what may need to file for a CPCN, the bill observes that a single residence may be considered a microgrid. Taken together the bill language suggests that a single household that has a solar-system paired with storage may ultimately be required to file for a CPCN before it is permitted to interconnect to the utility system. Such a requirement appears highly excessive.

It is also worth noting that the Hawaii Public Utilities Commission has an ongoing proceeding to address the establishment of a microgrid services tariff, pursuant to Act 200. Tesla submits that issues like those implicated by this bill can be raised and resolved in that forum, obviating the need for legislative intervention.

For all these reasons, Tesla asks the Committee to hold this well-intentioned, but premature measure.

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION**

H.B. No. 72

Relating to Microgrid Certificates of Public Convenience and Necessity

Tuesday, January 29, 2019

8:30 am

State Capitol, Conference Room 325

Kevin M. Katsura
Director, Regulatory Non-Rate Proceedings
Hawaiian Electric Company, Inc.

Chair Lowen, Vice Chair Wildberger, and Members of the Committee:

My name is Kevin Katsura and I am testifying on behalf of Hawaiian Electric Company and its subsidiary utilities Maui Electric Company and Hawai'i Electric Light Company. The Companies **support the intent** of H.B. 72 but believe that it should go further to require PUC oversight in certain circumstances in order to protect consumers.

The Companies support the use of microgrids as a resiliency-enhancing solution when its design and use benefits those within a microgrid and those external to the microgrid and connected to the larger electric grid. Ensuring the safety and consumer protection of consumers inside and outside of the grid with proper oversight and consumer protection requirements are essential. To that end, we offer the following comments:

Consumer protection criteria are critical elements that must be developed and enforced. Prior to deciding whether to participate in a microgrid, potential customers must be given clear and unambiguous information regarding microgrid financing, liability, commitments, guarantees, and other protective elements that might include bonding or other safe service assurance mechanisms. Microgrid customers should

have the right to choose whether or not to participate in microgrids, and procedures and protections must be developed to protect consumers who are not adequately served by their microgrid. Complaint notification, conflict resolution mechanisms, and other provisions should be developed to protect microgrid customers from misleading, deceptive, or predatory marketing practices and service deficiencies or lapses. Other consumer protection measures will be required to protect the interests of customers of the utility grid who are not customers of the microgrid. For example, cost recovery mechanisms must be developed to protect against the possibility that a microgrid owner or operator becomes insolvent, or the microgrid becomes unsafe or otherwise fails to provide electrical services in accordance with the utility codes, which could otherwise require capital investment or repairs by the public utility.

There may be situations where microgrid should be regulated by the Public Utilities Commission. For example, if a microgrid serves a certain number of customers in a subdivision who do not have a relationship with each other who do not have a choice to be in a part of a microgrid, or if a new customer moves into a home that is part of the microgrid and has no ability to opt out of the microgrid, or in any situation where consumer protections outlined above would be inadequate, the microgrid perhaps should be required to be regulated. This would give consumers a clear avenue of recourse - especially in misleading, deceptive, predatory marketing practices, service deficiencies or lapses by a microgrid.

Thank you for this opportunity to testify.



To: The House Committee on Energy & Environmental Protection
From: Sherry Pollack, Co-Founder, 350Hawaii.org
Date: Tuesday, 1/29/19

In support of HB 72

Aloha Chair Lowen, Vice Chair Wildberger, and Committee members,

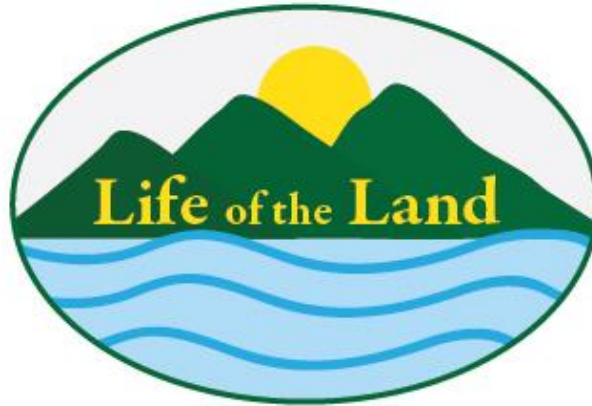
I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org supports **HB72**.

Minimum standards for granting microgrid certificates of public convenience and necessity will help the industry move forward with this important piece of the zero-emissions puzzle.

Please pass HB 72, to expedite Hawaii's progress toward a robust, zero-emissions future.

Mahalo for the opportunity to testify in **support** of this bill.

Sherry Pollack
Co-Founder, 350Hawaii.org



P.O. Box 37158, Honolulu, Hawai'i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Nicole E. Lowen, Chair

Rep. Tina Wildberger, Vice Chair

DATE: Tuesday, January 29, 2019

TIME: 8:30 AM

PLACE: Conference Room 325

HB 72 Microgrid CPCN

SUPPORT

Aloha Chair Lowen, Vice Chair Wildberger, and Members of the Committee

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land has two active climate change appeals before the Hawai'i Supreme Court. The court heard oral arguments on the first one in October 2018. We also have a climate change complaint before the Public Utilities Commission.

Hurricane Maria devastated Puerto Rico. Hurricane Lane approached O`ahu from the south, and if its intensity had remained for a day or two longer, O`ahu would have been devastated. Part of the lesson learned is the need to sectionalize the grid into utility-owned minigrids and third-party micro-grids.

The Hawai`i Public Utilities Commission currently has an active docket seeking to develop a standardized tariff for interconnecting micro-grids to the utility grid.

Regardless of whether the micro-grid becomes a regulated or unregulated grid—there is a benefit to the utility, the micro-grid owner, other third party energy companies, and the public to have basic information about a planned micro-grid.

Allowing micro-grid operators to apply for a certificate of public convenience and necessity (CPCN) is one effective way.

The Commission already grants CPCNs to non-legislatively initiated utilities including commercial transportation companies.

Utilities in other states have applied for a CPCN for micro-grids, including North Carolina¹, Colorado², and Maryland³.

Mahalo

Henry Curtis
Executive Director

¹ <https://www.ncuc.net/Hearings/e2sub1185hearing.html>

² <https://www.natlawreview.com/article/new-colorado-microgrid-closer-to-reality-niobrara-natgas-llc-receives-certificate-pu>

³ <https://www.elp.com/articles/2016/07/maryland-regulators-deny-baltimore-gas-electric-microgrid-proposal.html>



To: The House Committee on Energy & Environmental Protection
From: Brodie Lockard, Hawaii State Climate Lead, Organizing for Action
Date: Tuesday, January 29, 2019, 8:30 am

In support of HB 72

Dear EEP Chair Lowen, Vice Chair Wildberger and Committee Members—

Organizing for Action supports HB 72.

Minimum standards for granting microgrid certificates of public convenience and necessity will help the microgrid industry mature, decrease uncertainty about what a microgrid is, and make it easier to design and open them.

Microgrids are becoming more widespread, and need standards for safety, reliability, and ease of operability. And the PUC needs consistency to approve them in a coherent manner.

To help Hawaii's energy grid be more resilient and flexible, we ask your support of HB 72.

Thank you for the opportunity to testify.

Brodie Lockard
Hawaii State Climate Lead, Organizing for Action



O`ahu County Committee on Legislative Priorities (OCCLP)

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Nicole E. Lowen, Chair
Rep. Tina Wildberger, Vice Chair

Rep. Sharon E. Har Rep. Ryan I. Yamane
Rep. David A. Tarnas Rep. Cynthia Thielen
Rep. Chris Todd

DATE: Tuesday, January 29, 2019
TIME: 8:30 AM
PLACE: Conference Room 325. State Capitol
 415 South Beretania Street

RE: HB 72 Relating to Microgrid Certificates of Public Convenience and Necessity

Aloha mai kakou Members of the House Committee on Environmental Protection:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai'i (DPH) hereby submits its testimony in **SUPPORT of HB 72 relating Microgrid Certificates of Public Convenience and Necessity.**

HB 72 provides that microgrid owners and operators may file an application with the public utilities commission for a microgrid certificate of public convenience and necessity.

DPH seeks to achieve energy sustainability based on renewable energy sources. DPH seeks to urgently develop the use of a variety of cost-effective energy providing systems, encourage transit-oriented development, and support tax incentives that encourage renewable energy initiatives.

DPH supports energy independence, self-sufficiency, affordability and reliability for Hawai'i through the development of renewable alternative energy sources. Specifically, DPH needs to support policies that foster the development of energy production methods that de-emphasize carbon-based fuels and promote renewable sources such as wind, solar, wave, geothermal and Ocean Thermal Energy Conversion (OTEC).

Electricity rates in Hawai'i are among the highest in the Nation even though we enjoy an abundance of sunshine year-round. Electric utility companies and cooperatives must open the grid to alternative power sources including solar panels and geothermal energy. DPH supports the effort of our government officials to require utilities to provide for the maximum, comprehensive, integrated use of renewable energy and associated technologies such as storage and smart grid technologies.

DPH is committed to getting 100 percent of our electricity from clean energy sources within a decade. DPH encourages cutting energy waste in homes, schools, hospitals, and offices through energy efficient improvements; modernize our electric grid; and make manufacturing the cleanest and most efficient in the world. These efforts will create hundreds of new jobs and save families and businesses money on their monthly energy bills.

DPH will work to expand access to cost-saving renewable energy by low-income households, create good-paying jobs in communities that struggled with energy poverty, and oppose efforts by utilities to limit consumer choice or slow clean energy deployment. DPH will work to streamline State permitting to accelerate the construction of new transmission lines to get low-cost renewable energy to market, and incentivize wind, solar, and other renewable energy. *Democratic Party of Hawai'i Platform (2018), pp. 17, ln. 43-48, p.18, ln. 1-34.*

For these reasons, the OCCLP supports and urges the passage of HB 72 out of committee on Energy and Environmental Protection.

Mahalo nui loa
Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i

Ph. (808) 258-8889

Email: legislativepriorities@gmail.com

HB-72

Submitted on: 1/28/2019 11:42:12 AM

Testimony for EEP on 1/29/2019 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

There is no rational reason to pollute our own environment or destroy ecosystems.

www.WeAreOne.cc



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

January 28, 2019, 8:30 a.m.
(*Testimony is 1 page long*)

TESTIMONY IN OPPOSITION TO HB 72

Aloha Chair Lowen and Members of the Committee:

The Alliance for Solar Choice (TASC) respectfully opposes HB 72, relating to microgrids and certificates of public convenience and necessity.

As an initial matter, we note the following sentence on page 2 of the introduction appears wrong: “Not all microgrids are regulated by the public utilities commission, but all non-regulated microgrids could become regulated by interconnecting to a utility grid.”

The exceptions to the definition of a public utility are reasonably well-known and understood. *See, e.g.*, Haw. Rev. Stat. § 269-1. Merely interconnecting to the broader electrical grid does ***not*** trigger regulation as a public utility.

If this sentence is eliminated, the necessity of this bill is unclear. Haw. Rev. Stat. § 269-7.5 covers the steps for a public utility to get a certificate of public convenience and necessity. While there may be merit to the argument that microgrid operators should be expedited through this process, more explanation is necessary before advancing this bill.

Further, legislation expanding exceptions to the definition of a public utility also has merit, such as a renewable energy system serving a multifamily building across different property lines (with adequate consumer protections in place). Nevertheless, this bill does not address these situations.

Unless this bill were significantly amended, TASC respectfully suggests it be held for further discussion. Mahalo for the opportunity to testify.