

S.B. NO. 1095

JAN 27 2021

A BILL FOR AN ACT

RELATING TO THE USE OF ELECTRONIC FILING BY THE PUBLIC UTILITIES
COMMISSION.

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

1 SECTION 1. Section 269-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§269-5 Annual report and register of orders.** The public
4 utilities commission shall prepare and present to the governor
5 in the month of January in each year a report respecting its
6 actions during the preceding fiscal year. This report shall
7 include summary information and analytical, comparative, and
8 trend data concerning major regulatory issues acted upon and
9 pending before the commission; cases processed by the
10 commission, including their dispositions; utility company
11 operations, capital improvements, and rates; utility company
12 performance in terms of efficiency and quality of services
13 rendered; financing orders issued, adjustments made to the
14 public benefits fee, and repayments or credits provided to
15 electric utility customers pursuant to part X or chapter 196,
16 part IV; a summary of power purchase agreements, including
17 pricing, in effect during the fiscal year; environmental matters

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1 having a significant impact upon public utilities; actions of
2 the federal government affecting the regulation of public
3 utilities in Hawaii; long and short-range plans and objectives
4 of the commission; together with the commission's
5 recommendations respecting legislation and other matters
6 requiring executive and legislative consideration. [~~Copies~~]
7 Electronic copies of the annual reports shall be furnished by
8 the governor to the legislature. In addition, the commission
9 shall establish and maintain a register of all its orders and
10 decisions, which shall be open and readily available for public
11 inspection, and no order or decision of the commission shall
12 take effect until it is filed and recorded in this register."

13 SECTION 2. Section 269-6.5, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) No later than July 1, 2011, the public utilities
16 commission shall accept from any person who submits a document
17 to the commission the original [~~and~~] or one electronic copy of
18 each application, complaint, pleading, brief, or other document
19 required to be filed with the commission pursuant to this
20 chapter, and the consumer advocate shall accept service of one
21 paper [~~copy and one~~] or electronic copy of each application,

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1 complaint, pleading, brief, or other document filed with the
2 commission.

3 (b) The commission shall adopt rules pursuant to chapter
4 91 to effectuate the purposes of this section. Until the final
5 adoption by the commission of rules governing the electronic
6 filing of documents with the commission, the following
7 requirements shall apply to all documents submitted to the
8 commission pursuant to this section; provided that additional
9 requirements with regard to document format may be established
10 by the commission through written guidelines:

11 (1) Unless otherwise required by this chapter or the rules
12 or guidelines of the commission, each person who
13 submits or files an application, complaint, pleading,
14 brief, or other document shall submit to or file with
15 the commission an original [~~and~~] or one electronic
16 copy of each document and shall serve one paper [~~copy~~
17 ~~and one~~] or electronic copy of each document on the
18 consumer advocate;

19 (2) All paper documents submitted to or filed with the
20 commission shall be printed on one side of the page
21 only and, if practicable, in portrait orientation;

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- 1 (3) Original paper documents submitted to or filed with
2 the commission shall not be stapled but shall be
3 clipped together or placed in a clearly marked three-
4 ring binder, as appropriate;
- 5 (4) All paper documents filed or submitted to the
6 commission shall include appropriately labeled
7 separator pages in addition to tabbed dividers, as
8 applicable;
- 9 (5) All confidential documents filed under confidential
10 seal shall be clearly designated in accordance with
11 the requirements of any applicable protective order,
12 and the sealed envelope in which the confidential
13 documents are enclosed shall clearly indicate the
14 appropriate docket number and subject; and
- 15 ~~[(6) Electronic documents shall be submitted on a clearly~~
16 ~~marked compact disk and shall be in portable document~~
17 ~~format saved in separate files corresponding to the~~
18 ~~original paper document submission; provided that~~
19 ~~electronic documents submitted under confidential seal~~
20 ~~shall be submitted on a separate compact disk, clearly~~
21 ~~marked as confidential and indicating the appropriate~~
22 ~~docket number and subject; and~~

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1 ~~(7)]~~ (6) Electronic documents shall be named using the
2 filing party's name, docket number, date of filing,
3 and name of document as part of the document title.

4 Upon final adoption of rules pursuant to chapter 91, the
5 rules of the commission governing submission or filing of
6 electronic documents shall supersede the provisions of this
7 subsection."

8 SECTION 3. Section 269-7.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) No public utility, as defined in section 269-1, shall
11 commence its business without first having obtained from the
12 commission a certificate of public convenience and
13 necessity. Applications for certificates shall be made in
14 writing, on paper or electronically, to the commission and shall
15 comply with the requirements prescribed in the commission's
16 rules. The application shall include the type of service to be
17 performed, the geographical scope of the operation, the type of
18 equipment to be employed in the service, the name of competing
19 utilities for the proposed service, a statement of its financial
20 ability to render the proposed service, a current financial
21 statement of the applicant, and the rates or charges proposed to
22 be charged including the rules governing the proposed service."

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1 SECTION 4. Section 269-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§269-15 Commission may institute proceedings to enforce**
4 **chapter.** (a) If the public utilities commission is of the
5 opinion that any public utility or any person is violating or
6 neglecting to comply with any provision of this chapter or of
7 any rule, regulation, order, or other requirement of the
8 commission, or of any provisions of its franchise, charter, or
9 articles of association, if any, or that changes, additions,
10 extensions, or repairs are desirable in its plant or service to
11 meet the reasonable convenience or necessity of the public, or
12 to insure greater safety or security, or that any rates, fares,
13 classifications, charges, or rules are unreasonable or
14 unreasonably discriminatory, or that in any way it is doing what
15 it ought not to do, or not doing what it ought to do, it shall
16 in writing, on paper or electronically, inform the public
17 utility or the person and may institute [~~such~~] proceedings
18 before it, as may be necessary to require the public utility or
19 the person to correct [~~any such~~] the deficiency. [~~In such~~
20 ~~event, the~~] The commission may, by order, direct the consumer
21 advocate to appear in [~~such~~] the proceeding[~~7~~] to carry out the
22 purposes of this section. The commission may examine into any

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1 of the matters referred to in section 269-7, notwithstanding
2 that the same may be within the jurisdiction of any court or
3 other body; provided that this section shall not be construed as
4 in any manner limiting or otherwise affecting the jurisdiction
5 of [~~any such~~] the court or other body.

6 (b) In addition to any other remedy available, the
7 commission or its enforcement officer may issue citations to any
8 person acting in the capacity of or engaging in the business of
9 a public utility within the State, without having a certificate
10 of public convenience and necessity or other authority
11 previously obtained under and in compliance with this chapter or
12 the rules adopted thereunder.

13 (1) The citation may contain an order of abatement and an
14 assessment of civil penalties as provided in section
15 269-28(c). All penalties collected under this
16 subsection shall be deposited in the treasury of the
17 State. Service of a citation issued under this
18 subsection shall be made by personal service whenever
19 possible, or by certified mail, restricted delivery,
20 sent to the last known business or residence address
21 of the person cited.

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- 1 (2) Any person served with a citation under this
2 subsection may submit a written request, on paper or
3 electronically, to the commission for a hearing[7]
4 within twenty days from the receipt of the citation,
5 with respect to the violations alleged, the scope of
6 the order of abatement, and the amount of civil
7 penalties assessed. If the person cited under this
8 subsection timely notifies the commission of the
9 request for a hearing, the commission shall afford an
10 opportunity for a hearing under chapter 91. The
11 hearing shall be conducted by the commission, or the
12 commission may designate a hearings officer to hold
13 the hearing.
- 14 (3) If the person cited under this subsection does not
15 submit a written request, on paper or electronically,
16 to the commission for a hearing within twenty days
17 from the receipt of the citation, the citation shall
18 be deemed a final order of the commission. The
19 commission may apply to the appropriate court for a
20 judgment to enforce the provisions of any final order,
21 issued by the commission or designated hearings
22 officer pursuant to this subsection, including the

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1 provisions for abatement and civil penalties
2 imposed. In any proceeding to enforce the provisions
3 of the final order of the commission or designated
4 hearings officer, the commission need only show that
5 the notice was given, a hearing was held, or the time
6 granted for requesting the hearing has run without
7 such a request, and a certified copy of the final
8 order of the commission or designated hearings
9 officer.

- 10 (4) If any party is aggrieved by the decision of the
11 commission or the designated hearings officer, the
12 party may appeal to the intermediate appellate court,
13 subject to chapter 602, in the manner provided for
14 civil appeals from the circuit court; provided that
15 the operation of an abatement order shall not be
16 stayed on appeal unless specifically ordered by a
17 court of competent jurisdiction after applying the
18 stay criteria enumerated in section 91-14(c). The
19 sanctions and disposition authorized under this
20 subsection shall be separate and in addition to all
21 other remedies either civil or criminal provided in
22 any other applicable statutory provision. The

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1 commission may adopt rules under chapter 91 as may be
2 necessary to fully effectuate this subsection."

3 SECTION 5. Section 269-16, Hawaii Revised Statutes, is
4 amended as follows:

5 (1) By amending subsection (d) to read as follows:

6 "(d) The commission shall make every effort to complete
7 its deliberations and issue its decision as expeditiously as
8 possible and before nine months from the date the public utility
9 filed its completed application; provided that in carrying out
10 this mandate, the commission shall require all parties to a
11 proceeding to comply strictly with procedural time schedules
12 that it establishes. If a decision is rendered after the nine-
13 month period, the commission shall report in writing, on paper
14 or electronically, the reasons therefor to the legislature
15 within thirty days after rendering the decision.

16 Notwithstanding subsection (c), if the commission has not
17 issued its final decision on a public utility's rate application
18 within the nine-month period stated in this section, the
19 commission, within one month after the expiration of the nine-
20 month period, shall render an interim decision allowing the
21 increase in rates, fares and charges, if any, to which the
22 commission, based on the evidentiary record before it, believes

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1 the public utility is probably entitled. The commission may
2 postpone its interim rate decision for thirty days if the
3 commission considers the evidentiary hearings incomplete. In
4 the event interim rates are made effective, the commission shall
5 require by order the public utility to return, in the form of an
6 adjustment to rates, fares, or charges to be billed in the
7 future, any amounts with interest, at a rate equal to the rate
8 of return on the public utility's rate base found to be
9 reasonable by the commission, received under the interim rates
10 that are in excess of the rates, fares, or charges finally
11 determined to be just and reasonable by the commission.
12 Interest on any excess shall commence as of the date that any
13 rate, fare, or charge goes into effect that results in the
14 excess and shall continue to accrue on the balance of the excess
15 until returned.

16 The nine-month period in this subsection shall begin only
17 after a completed application has been filed with the commission
18 and a paper or an electronic copy served on the consumer
19 advocate. The commission shall establish standards concerning
20 the data required to be set forth in the application in order
21 for it to be deemed a completed application. The consumer
22 advocate may, within twenty-one days after receipt, object to

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1 the sufficiency of any application, and the commission shall
2 hear and determine any objection within twenty-one days after it
3 is filed. If the commission finds that the objections are
4 without merit, the application shall be deemed to have been
5 completed upon original filing. If the commission finds the
6 application to be incomplete, it shall require the applicant to
7 submit an amended application consistent with its findings, and
8 the nine-month period shall not commence until the amended
9 application is filed."

10 (2) By amending subsection (f) to read as follows:

11 "(f) Notwithstanding any law to the contrary, for public
12 utilities having annual gross revenues of less than \$2,000,000,
13 the commission may make and amend its rules and procedures to
14 provide the commission with sufficient facts necessary to
15 determine the reasonableness of the proposed rates without
16 unduly burdening the utility company and its customers. In the
17 determination of the reasonableness of the proposed rates, the
18 commission shall:

19 (1) Require the filing of a standard form application to
20 be developed by the commission. The standard form
21 application for general rate increases shall describe
22 the specific facts that shall be submitted to support

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1 a determination of the reasonableness of the proposed
2 rates, and require the submission of financial
3 information in conformance with a standard chart of
4 accounts to be approved by the commission, and other
5 commission guidelines to allow expeditious review of a
6 requested general rate increase application;

7 (2) Hold a public hearing as prescribed in section
8 269-12(c), at which the consumers or patrons of the
9 public utility may present testimony to the commission
10 concerning the increase. The public hearing shall be
11 preceded by proper notice, as prescribed in section
12 269-12; and

13 (3) Make every effort to complete its deliberations and
14 issue a proposed decision and order within six months
15 from the date the public utility files a completed
16 application with the commission; provided that all
17 parties to the proceeding strictly comply with the
18 procedural schedule established by the commission and
19 no person is permitted to intervene. If a proposed
20 decision and order is rendered after the six-month
21 period, the commission shall report in writing, on
22 paper or electronically, the reasons therefor to the

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1 legislature within thirty days after rendering the
2 proposed decision and order. Prior to the issuance of
3 the commission's proposed decision and order, the
4 parties shall not be entitled to a contested case
5 hearing.

6 If all parties to the proceeding accept the proposed
7 decision and order, the parties shall not be entitled to a
8 contested case hearing, and section 269-15.5 shall not
9 apply. If the commission permits a person to intervene, the
10 six-month period shall not apply and the commission shall make
11 every effort to complete its deliberations and issue its
12 decision within the nine-month period from the date the public
13 utility's completed application was filed, pursuant to
14 subsections (b), (c), and (d).

15 If a party does not accept the proposed decision and order,
16 either in whole or in part, that party shall give notice of its
17 objection or nonacceptance within the timeframe prescribed by
18 the commission in the proposed decision and order, setting forth
19 the basis for its objection or nonacceptance; provided that the
20 proposed decision and order shall have no force or effect
21 pending the commission's final decision. If notice is filed,
22 the above six-month period shall not apply and the commission

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1 shall make every effort to complete its deliberations and issue
2 its decision within the nine-month period from the date the
3 public utility's completed application was filed as set forth in
4 subsection (d). Any party that does not accept the proposed
5 decision and order under this paragraph shall be entitled to a
6 contested case hearing; provided that the parties to the
7 proceeding may waive the contested case hearing.

8 Public utilities subject to this subsection shall follow
9 the standard chart of accounts to be approved by the commission
10 for financial reporting purposes. The public utilities shall
11 file a certified copy of the annual financial statements in
12 addition to an updated chart of accounts used to maintain their
13 financial records with the commission and consumer advocate
14 within ninety days from the end of each calendar or fiscal year,
15 as applicable, unless this timeframe is extended by the
16 commission. The owner, officer, general partner, or authorized
17 agent of the utility shall certify that the reports were
18 prepared in accordance with the standard chart of accounts."

19 SECTION 6. Section 269-19.5, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:

21 "(c) No contract or agreement providing for the furnishing
22 of management, supervisory, construction, engineering,

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1 accounting, legal, financial, or similar services, and no
2 contract or agreement for the purchase, sale, lease, furnishing,
3 or exchange of any real or personal property rights, including,
4 but not limited to, real estate, improvements on land,
5 equipment, leasehold interests, easements, rights-of-way,
6 franchises, licenses, permits, trademarks, and copyrights, made
7 or entered into after July 1, 1988, between a public utility and
8 any affiliated interest shall be valid or effective unless and
9 until the contract or agreement has been received by the
10 commission. It shall be the duty of every public utility to
11 file with the commission a verified paper or electronic copy of
12 any contract or agreement with an affiliate having a face value
13 of at least \$300,000, or a verified summary of any unwritten
14 contract or agreement having a face value of at least \$300,000
15 within forty-five days of the effective date of the contract or
16 agreement. Each and every contract or agreement between a
17 public utility and an affiliate for capital expenditures, other
18 than for real property or an interest therein, shall be
19 accompanied with price quotations provided by at least two
20 nonaffiliated suppliers, providers, or purveyors, or if [~~such~~]
21 the price quotations cannot be obtained without substantial
22 expense to the utility, [~~that~~] the public utility shall verify

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1 that fact by affidavit; provided that all contracts or
2 agreements effective at the time of a general rate proceeding,
3 which were discoverable and subject to review by the commission,
4 shall be valid and not subject to subsequent regulatory review
5 and action by the commission; provided further [~~however,~~] that
6 notwithstanding any other provision to the contrary, there shall
7 be no transfer of real property, or interest in real property
8 between a public utility and an affiliate, without prior
9 approval of the commission, after hearing, wherein the public
10 utility must show that the transfer is in the best interest of
11 the public utility and all of its customers.

12 No affirmative action is required by the commission [~~in~~
13 ~~regards~~] with regard to the filing of the contract or agreement;
14 provided [~~however,~~] that if the commission, in its discretion,
15 determines that the terms and conditions of the contract or
16 agreement to be unreasonable or otherwise contrary to the public
17 interest, the commission shall notify the public utility of its
18 determination, whereupon the public utility shall have the
19 option to alter, revise, amend, or terminate the contract or
20 agreement, or assume the risk that future payments for
21 performance of the contract or agreement will be deemed

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1 unreasonable and excluded by the commission for ratemaking
2 purposes."

3 SECTION 7. Section 271-9.5, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) No later than July 1, 2011, the public utilities
6 commission shall accept from any person who submits a document
7 to the commission the original [~~and~~] or one electronic copy of
8 each application, complaint, pleading, brief, or other document
9 required to be filed with the commission pursuant to this
10 chapter, and the consumer advocate shall accept service of one
11 paper [~~copy and one~~] or electronic copy of each application,
12 complaint, pleading, brief, or other document filed with the
13 commission.

14 (b) The commission shall adopt rules pursuant to chapter
15 91 to effectuate the purposes of this section. Until the final
16 adoption by the commission of rules governing the electronic
17 filing of documents with the commission, the following
18 requirements shall apply to all documents submitted to the
19 commission pursuant to this section; provided that additional
20 requirements with regard to document format may be established
21 by the commission through written guidelines:

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- 1 (1) Unless otherwise required by this chapter or the rules
2 or guidelines of the commission, each person who
3 submits or files an application, complaint, pleading,
4 brief, or other document shall submit to or file with
5 the commission an original [~~and~~] or one electronic
6 copy of each document and shall serve one paper [~~copy~~
7 ~~and one~~] or electronic copy of each document on the
8 consumer advocate;
- 9 (2) All paper documents submitted to or filed with the
10 commission shall be printed on one side of the page
11 only and, if practicable, in portrait orientation;
- 12 (3) Original paper documents submitted to or filed with
13 the commission shall not be stapled but shall be
14 clipped together or placed in a clearly marked three-
15 ring binder, as appropriate;
- 16 (4) All paper documents filed or submitted to the
17 commission shall include appropriately labeled
18 separator pages in addition to tabbed dividers, as
19 applicable;
- 20 (5) All confidential documents filed under confidential
21 seal shall be clearly designated in accordance with
22 the requirements of any applicable protective order,

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1 and the sealed envelope in which the confidential
2 documents are enclosed shall clearly indicate the
3 appropriate docket number and subject; and

4 [~~(6) Electronic documents shall be submitted on a clearly
5 marked compact disk and shall be in portable document
6 format saved in separate files corresponding to the
7 original paper document submission; provided that
8 electronic documents submitted under confidential seal
9 shall be submitted on a separate compact disk, clearly
10 marked as confidential and indicating the appropriate
11 docket number and subject; and]~~

12 ~~(7)]~~ (6) Electronic documents shall be named using the
13 filing party's name, docket number, date of filing,
14 and name of document as part of the document title.

15 Upon final adoption of rules pursuant to chapter 91, the
16 rules of the commission governing submission or filing of
17 electronic documents shall supersede the provisions of this
18 subsection."

19 SECTION 8. Section 271-10, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§271-10 Reports and decisions of commission.** (a)

22 Whenever the public utilities commission inquires into the

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1 operations, operating rights, or rates, or directs inquiry and
2 investigation into motor carrier activities regulated under this
3 chapter, and holds public hearing thereon, it shall make a
4 report in writing, on paper or electronically, in respect
5 thereto, which shall state its findings of fact and conclusions
6 of law, together with its decision, order, or requirement in the
7 premises.

8 (b) All reports issued under subsection (a) shall be
9 entered of record, and a paper or an electronic copy thereof
10 shall be furnished to parties of record in [~~any such~~] the
11 proceeding.

12 (c) The commission may provide for the publication of its
13 reports and decisions in [~~such~~] a form and manner as may be best
14 adapted for public information and use, and these authorized
15 publications shall be competent evidence of the reports and
16 decisions of the commission therein contained in all courts of
17 this State without any further proof or authentication thereof.
18 The commission may also cause to be printed for early
19 distribution its annual reports."

20 SECTION 9. Section 271-13, Hawaii Revised Statutes, is
21 amended to read as follows:

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1 **"§271-13 Permits for contract carriers by motor vehicle.**

2 (a) Except as otherwise provided in this section and in section
3 271-16, no person shall engage in the business of a contract
4 carrier by motor vehicle over any public highway in this State
5 unless there is in force with respect to [~~such~~] the carrier a
6 permit issued by the public utilities commission authorizing the
7 person to engage in this business.

8 (b) Applications for permits shall be made in writing, on
9 paper or electronically, to the commission, be verified under
10 oath, and shall be in [~~such~~] a form [~~and~~], contain [~~such~~] the
11 information, and be accompanied by proof of service upon
12 interested parties, as the commission shall[~~r~~] by regulation[~~r~~]
13 require.

14 (c) Subject to section 271-15, a permit shall be issued to
15 any qualified applicant therefor, authorizing in whole or in
16 part the operations covered by the application, if it is found
17 that the applicant is fit, willing, and able [~~properly~~] to
18 properly perform the service of a contract carrier by motor
19 vehicle, and to conform to this chapter and the lawful
20 requirements, rules, and regulations of the commission
21 thereunder, and that the proposed operation to the extent
22 authorized by the permit will be consistent with the public

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1 interest and the transportation policy declared in this chapter;
2 otherwise, the application shall be denied. In determining
3 whether issuance of a permit will be consistent with the public
4 interest and the transportation policy, the commission shall
5 consider the number of shippers to be served by the applicant,
6 the nature of the service proposed, whether the proposed service
7 can be or is being properly performed by existing common
8 carriers, the effect which granting the permit would have upon
9 the services of the protesting carriers, the effect which
10 denying the permit would have upon the applicant's proposed
11 shipper or shippers, and the changing character of shipper
12 requirements; provided[~~, however,~~] that a permit shall not be
13 issued in any case where it has been established that an
14 existing common carrier is properly performing[~~]~~ the proposed
15 service. The commission shall specify in the permit the
16 business of the contract carrier covered thereby and the scope
17 thereof, and it shall attach to it at the time of issuance, and
18 from time to time thereafter [~~such~~] reasonable terms,
19 conditions, and limitations consistent with the character of the
20 holder of the permit as a contract carrier, including terms,
21 conditions, and limitations respecting the person or persons,
22 their names, the number or class thereof for which the contract

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1 carrier may perform transportation service, as may be necessary
2 to assure that the business is that of a contract carrier and
3 within the scope of the permit, and to carry out with respect to
4 the operation of the carrier the requirements established by the
5 commission under sections 271-9(a)(2) and 271-9(a)(4). Any
6 permit covering the transportation of passengers may include
7 authority to transport in the same vehicle with the passengers,
8 baggage of passengers, and also authority to transport baggage
9 of passengers in a separate vehicle; provided that within the
10 scope of the permit and any terms, conditions, or limitations
11 attached thereto, the carrier shall have the right to substitute
12 or add to its equipment and facilities as the development of its
13 business may require; and provided further that no motor carrier
14 shall commence operations under any contract carrier authority
15 granted under this section until it has filed with the
16 commission a certified copy or an electronic copy of a written
17 contract or contracts executed with the shipper or shippers for
18 whom the service is authorized in the permit to be provided, the
19 contract or contracts to be bilateral and impose specific
20 obligations upon both carrier and shipper or shippers, and to
21 set forth all terms and conditions of any transportation

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1 agreement obtaining between the motor carrier and the shipper or
2 shippers."

3 SECTION 10. Section 271-31, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Complaints may be made~~[r]~~ in writing, on paper or
6 electronically, by the commission on its own motion or by any
7 person or body politic, setting forth any act or thing done, or
8 omitted to be done, by any motor carrier, including any rule,
9 regulation, rate, or charge~~[r]~~ heretofore established or fixed
10 by or for any motor carrier, in violation or claimed to be in
11 violation, of any law or of any order or rule of the
12 commission."

13 SECTION 11. Section 271G-7.5, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) No later than July 1, 2011, the public utilities
16 commission shall accept from any person who submits a document
17 to the commission the original ~~[and]~~ or one electronic copy of
18 each application, complaint, pleading, brief, or other document
19 required to be filed with the commission pursuant to this
20 chapter, and the consumer advocate shall accept service of one
21 paper ~~[copy and one]~~ or electronic copy of each application,

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1 complaint, pleading, brief, or other document filed with the
2 commission.

3 (b) The commission shall adopt rules pursuant to chapter
4 91 to effectuate the purposes of this section. Until the final
5 adoption by the commission of rules governing the electronic
6 filing of documents with the commission, the following
7 requirements shall apply to all documents submitted to the
8 commission pursuant to this section; provided that additional
9 requirements with regard to document format may be established
10 by the commission through written guidelines:

11 (1) Unless otherwise required by this chapter or the rules
12 or guidelines of the commission, each person who
13 submits or files an application, complaint, pleading,
14 brief, or other document shall submit to or file with
15 the commission an original [~~and~~] or one electronic
16 copy of each document and shall serve one paper [~~copy~~
17 ~~and one~~] or electronic copy of each document on the
18 consumer advocate;

19 (2) All paper documents submitted to or filed with the
20 commission shall be printed on one side of the page
21 only and, if practicable, in portrait orientation;

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- 1 (3) Original paper documents submitted to or filed with
2 the commission shall not be stapled but shall be
3 clipped together or placed in a clearly marked three-
4 ring binder, as appropriate;
- 5 (4) All paper documents filed or submitted to the
6 commission shall include appropriately labeled
7 separator pages in addition to tabbed dividers, as
8 applicable;
- 9 (5) All confidential documents filed under confidential
10 seal shall be clearly designated in accordance with
11 the requirements of any applicable protective order,
12 and the sealed envelope in which the confidential
13 documents are enclosed shall clearly indicate the
14 appropriate docket number and subject; and
- 15 ~~[(6) Electronic documents shall be submitted on a clearly~~
16 ~~marked compact disk and shall be in portable document~~
17 ~~format saved in separate files corresponding to the~~
18 ~~original paper document submission; provided that~~
19 ~~electronic documents submitted under confidential seal~~
20 ~~shall be submitted on a separate compact disk, clearly~~
21 ~~marked as confidential and indicating the appropriate~~
22 ~~docket number and subject; and~~

S.B. NO. 1095

1 ~~(7)]~~ (6) Electronic documents shall be named using the
2 filing party's name, docket number, date of filing,
3 and name of document as part of the document title.

4 Upon final adoption of rules pursuant to chapter 91, the
5 rules of the commission governing submission or filing of
6 electronic documents shall supersede the provisions of this
7 subsection."

8 SECTION 12. Section 271G-19, Hawaii Revised Statutes, is
9 amended by amending subsections (d) and (e) to read as follows:

10 "(d) Any water carrier, or any officer, agent, employee,
11 or representative thereof, who shall fail or refuse to comply
12 with any provision of this chapter, or any rule, regulation,
13 filed tariff or requirement or order thereunder, shall pay a
14 civil penalty to the State in the sum of not less than \$100~~]~~
15 nor more than \$5,000 for each offense~~]~~ and, in the case of a
16 continuing violation, not to exceed \$5,000 for each additional
17 day during which the failure or refusal continues. A penalty
18 shall become due and payable when the person incurring it
19 receives a notice in writing, on paper or electronically,
20 reasonably describing the violation and advising that the
21 penalty is due.

S.B. NO. 1015

1 (e) In addition to any other remedy available, the
2 commission or its enforcement officer may issue citations to
3 persons acting in the capacity of or engaging in the business of
4 a water carrier within the State, without having a certificate
5 of public convenience and necessity or other authority
6 previously obtained under and in compliance with this chapter
7 and the rules adopted thereunder.

8 (1) The citation may contain an order of abatement and an
9 assessment of civil penalties of not less than \$100[~~7~~]
10 nor more than \$500 for each [~~such~~] offense[~~7~~] and, in
11 the case of a continuing violation, not less than \$200
12 nor more than \$500 for each day that uncertified
13 activity continues. All penalties collected under
14 this subsection shall be deposited in the treasury of
15 the State. Service of a citation issued under this
16 subsection shall be made by personal service whenever
17 possible, or by certified mail, restricted delivery,
18 sent to the last known business or residence address
19 of the person cited.

20 (2) Any person served with a citation under this
21 subsection may submit a written request, on paper or
22 electronically, to the commission for a hearing[~~7~~]

S.B. NO. 1095

1 within twenty days from the receipt of the citation,
2 with respect to the violations alleged, the scope of
3 the order of abatement, and the amount of civil
4 penalties assessed. If the person cited under this
5 subsection timely notifies the commission of the
6 request for a hearing, the commission shall afford an
7 opportunity for a hearing under chapter 91. The
8 hearing shall be conducted by the commission, or the
9 commission may designate a hearings officer to hold
10 the hearing.

- 11 (3) If the person cited under this subsection does not
12 submit a written request, on paper or electronically,
13 to the commission for a hearing within twenty days
14 from the receipt of the citation, the citation shall
15 be deemed a final order of the commission. The
16 commission may apply to the appropriate court for a
17 judgment to enforce the provisions of any final
18 order[~~7~~] issued by the commission or designated
19 hearings officer pursuant to this subsection,
20 including the provisions for abatement and civil
21 penalties imposed. In any proceeding to enforce the
22 provisions of the final order of the commission or

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1 designated hearings officer, the commission need only
2 show that the notice was given, a hearing was held, or
3 the time granted for requesting the hearing has run
4 without [~~such~~] a request, and a certified copy of the
5 final order of the commission or designated hearings
6 officer.

7 (4) If any party is aggrieved by the decision of the
8 commission or the designated hearings officer, the
9 party may appeal, subject to chapter 602, in the
10 manner provided for civil appeals from the circuit
11 courts; provided that the operation of an abatement
12 order shall not be stayed on appeal unless
13 specifically ordered by a court of competent
14 jurisdiction after applying the stay criteria
15 enumerated in section 91-14(c). The sanctions and
16 disposition authorized under this subsection shall be
17 separate and in addition to all other remedies, either
18 civil or criminal, provided in any other applicable
19 statutory provision. The commission may adopt rules
20 under chapter 91 as may be necessary to fully
21 effectuate this subsection."

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1 SECTION 13. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 14. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: *M. N. W.*

6

BY REQUEST

S.B. NO. 1095

Report Title:

Public Utilities Commission; Electronic Filing; Chapter 269;
Chapter 271; Chapter 271G

Description:

Updates various provisions in chapters 269, 271, and 271G, Hawaii Revised Statutes, to enable the Public Utilities Commission to use electronic filing processes and similar practices.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

SB. NO. 1095

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO THE USE OF ELECTRONIC FILING BY THE PUBLIC UTILITIES COMMISSION.

PURPOSE: To update various provisions in chapters 269, 271, and 271G, Hawaii Revised Statutes (HRS), to enable the Public Utilities Commission (Commission) to use electronic filing processes and similar practices.

MEANS: Amend sections 269-5, 269-6.5(a) and (b), 269-7.5(a), 269-15, 269-16(d) and (f), 269-19.5(c), 271-9.5(a) and (b), 271-10, 271-13, 271-31(b), 271G-7.5(a) and (b), and 271G-19(d) and (e), HRS.

JUSTIFICATION: Various provisions in HRS chapters 269, 271, and 271G require the Commission to employ hard copy service or filing. The COVID-19 pandemic, however, has significantly impacted the operations of the Commission, as well as its customers, regulated utilities, and other stakeholders, and has made hard copy service or filing impractical, unsafe, or impossible. Prior to the pandemic, over 95% of the Commission's docketed filings were on paper and were received in-person or via mail. The paper filings were then scanned by Commission staff into the document management system for internal distribution, public accessibility, and record retention. In addition, the filing agencies often set aside staff to print the paper documents, generate copies, meet in-person to sign their various documents, and hand-deliver the filings to the Commission. Filings are often very lengthy, sometimes exceeding 10,000 pages and filling 10 to 15 boxes.

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In response to the current circumstances and their workflow impacts, the Commission issued a temporary order, Order No. 37043, to allow for all-electronic filings. The Commission is currently receiving 100% of its docketed filings through electronic means, which has allowed the Commission to conduct business safely and efficiently during this time.

Impact on the public: This bill will allow the Commission to continue to provide essential services to the public, regulated utilities, and other stakeholders. It will also allow the public to file documents more easily with the Commission.

Impact on the department and other agencies: This bill will enable the Commission to make the above improvements permanent. It will also allow the Commission to operate more efficiently and use fewer resources to complete essential tasks, both during the COVID-19 crisis and in the long term.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-901.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.