

JAN 19 2022

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that Act 97, Session Laws
2 of Hawaii 2015, established a renewable portfolio standards
3 target of one hundred per cent renewable electric energy by
4 2045. Act 15, Session Laws of Hawaii 2018, also established a
5 statewide zero emissions clean economy target to sequester more
6 atmospheric carbon and greenhouse gases than emitted within the
7 State as quickly as practicable, but no later than 2045.

8 To move the State closer to its carbon negative target as
9 soon as possible, which is needed to mitigate the damaging
10 effects of projected sea level rise due to greenhouse gas
11 emissions, the legislature finds that continual progress and the
12 timely approval, commencement of construction, and completion of
13 renewable energy projects is of paramount importance.

14 Renewable energy project developers must wait until the
15 public utilities commission has first approved the project and
16 the power purchase agreement before obtaining financing or
17 expending significant moneys to begin construction of their



1 respective projects. Accordingly, delays in receiving approvals
2 from the public utilities commission typically results in delays
3 to obtaining financing and the commencement of construction of
4 the renewable energy project. The legislature further finds
5 that renewable energy projects take multiple years to develop.
6 A procedural framework is therefore necessary to ensure timely
7 progression of these important projects.

8 The Hawaii natural energy institute informed the public
9 utilities commission in December 2020, that the timely
10 completion of these projects is critical to mitigate grid
11 reliability issues. The legislature consequently finds that
12 defining the timing of the public utilities commission's review
13 process for power purchase agreements will not only help bring
14 utility-scale renewable energy projects online sooner, it will
15 also:

16 (1) Decrease electricity rates for consumers by providing
17 project developers with added certainty regarding
18 timing, which helps to lower bid pricing;

19 (2) Help achieve the State's renewable portfolio standards
20 goals in a timely manner; and



1 (3) Help reduce greenhouse gas emissions earlier in order
2 to mitigate climate change.

3 State departments need to implement more efficient ways to
4 streamline government processing and the review of proposed
5 renewable energy projects. The legislative previously
6 established time limits for state and county agencies by which
7 they must issue decisions in certain types of matters.
8 Specifically, section 269-16(d), Hawaii Revised Statutes,
9 requires the public utilities commission to make every effort to
10 complete its deliberations concerning ratemaking proceedings and
11 issue its decision as expeditiously as possible within nine
12 months from the date a public utility filed a certain
13 application. However, due to the need to more timely facilitate
14 the approval of renewable energy matters, the legislature finds
15 that a six-month deadline is more appropriate. Therefore, the
16 purpose of this Act is to:

17 (1) Require the public utilities commission to render
18 decisions on certain power purchase agreement
19 applications within one hundred and eighty days of the
20 filing of the application;



(2) Exempt certain power purchase agreement amendments from the public utilities commission's review and approval process; and

(3) For ratemaking proceedings, require the public utilities commission to complete its deliberations and issue its decision before six months from the date a public utility has filed its application for approval.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§269- Public utilities commission decision-making for renewable energy matters; power purchase agreements. (a)
Beginning July 1, 2022, the public utilities commission shall approve, approve with modifications, or deny matters for proposed renewable energy power purchase agreement applications filed with the commission within one hundred and eighty days of the filing. In carrying out this mandate, the commission shall set and enforce a procedural schedule that allows the commission to meet the one-hundred-and-eighty-day period. If the application is not approved, approved with modification, or denied by the commission within one hundred and eighty days, the



1 matter shall be deemed approved by the commission. If a
2 decision is not made within the one-hundred-and-eighty-day
3 period, the commission shall report the reasons therefor to the
4 legislature and the governor in writing within thirty days after
5 the expiration of the one hundred and eighty day period.

6 (b) For any power purchase agreement previously approved
7 by the public utilities commission, any subsequent amendments
8 thereto shall not require approval of the public utilities
9 commission; provided that the amended power purchase agreement
10 reduces the unit price of the energy or energy potential from
11 the previously approved power purchase agreement.

12 (c) This section shall only apply to utility-scale
13 renewable energy projects that are five megawatts in total
14 output capacity or larger.

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

17 SECTION 3. Section 269-16, Hawaii Revised Statutes, is
18 amended by amending subsection (d) to read as follows:

19 "(d) The commission shall make every effort to complete
20 its deliberations and issue its decision as expeditiously as
21 possible and before [~~nine~~] six months from the date the public



1 utility filed its completed application; provided that in
2 carrying out this mandate, the commission shall require all
3 parties to a proceeding to comply strictly with procedural time
4 schedules that it establishes. If a decision is rendered after
5 the [~~nine-month~~] six-month period, the commission shall report
6 in writing the reasons therefor to the legislature within thirty
7 days after rendering the decision.

8 Notwithstanding subsection (c), if the commission has not
9 issued its final decision on a public utility's rate application
10 within the [~~nine-month~~] six-month period stated in this section,
11 the commission, within one month after the expiration of the
12 [~~nine-month~~] six-month period, shall render an interim decision
13 allowing the increase in rates, fares and charges, if any, to
14 which the commission, based on the evidentiary record before it,
15 believes the public utility is probably entitled. The
16 commission may postpone its interim rate decision for thirty
17 days if the commission considers the evidentiary hearings
18 incomplete. In the event interim rates are made effective, the
19 commission shall require by order the public utility to return,
20 in the form of an adjustment to rates, fares, or charges to be
21 billed in the future, any amounts with interest, at a rate equal



1 to the rate of return on the public utility's rate base found to
2 be reasonable by the commission, received under the interim
3 rates that are in excess of the rates, fares, or charges finally
4 determined to be just and reasonable by the commission.

5 Interest on any excess shall commence as of the date that any
6 rate, fare, or charge goes into effect that results in the
7 excess and shall continue to accrue on the balance of the excess
8 until returned.

9 The [~~nine-month~~] six-month period in this subsection shall
10 begin only after a completed application has been filed with the
11 commission and a copy served on the consumer advocate. The
12 commission shall establish standards concerning the data
13 required to be set forth in the application in order for it to
14 be deemed a completed application. The consumer advocate may,
15 within twenty-one days after receipt, object to the sufficiency
16 of any application, and the commission shall hear and determine
17 any objection within twenty-one days after it is filed. If the
18 commission finds that the objections are without merit, the
19 application shall be deemed to have been completed upon original
20 filing. If the commission finds the application to be
21 incomplete, it shall require the applicant to submit an amended



1 application consistent with its findings, and the [~~nine-month~~]
2 six-month period shall not commence until the amended
3 application is filed."

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on June 30, 2022.

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INTRODUCED BY: *Francis J. Monroe*



S.B. NO. 2057

Report Title:

Renewable Energy; Public Utilities Commission; Electric Public Utilities

Description:

Requires the Public Utilities Commission to render decisions on certain power purchase agreement applications within one hundred and eighty days of the filing of the application. Exempts certain power purchase agreement amendments from the Public Utilities Commission review and approval process. For ratemaking proceedings, requires the Public Utilities Commission to complete its deliberations and issue its decision before six months from the date a public utility has filed its application for approval. Effective June 30, 2022.

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