



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Tuesday, March 14, 2023
2:00 p.m.
Conference Room 329**

**On the following measure:
S.B. 476, S.D. 1, RELATING TO THE PUBLIC UTILITIES COMMISSION**

Chair Nakashima and Members of the Committee:

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

The purpose of this bill is to exempt a public utility from the required Public Utilities Commission (Commission) authorization when disposing at a loss or donating a fully depreciated asset or property with a zero net book value that is no longer used or useful.

While the Department appreciates administrative efficiency, which may be the intent of this bill, the Department believes that the bill as written is contrary to the consumers' interests. If enacted, consumers may face higher than necessary rates and/or transactions could occur that are not in consumers' interests.

For instance, the proposed amendment would allow utilities and water carriers to dispose or transfer property or assets that may still serve the public interest and still has value. There are many instances where an asset may be fully depreciated but can still

be used by the regulated utility or water carrier. For example, the taxable depreciable life of an auto or truck is five years but the actual useful life of a vehicle is generally longer than five years. Allowing a regulated entity to dispose of such assets when its net book value is zero could mean that the regulated entity could then purchase a new vehicle even though it was not yet necessary to purchase a new vehicle. Such a practice would result in higher rates. Another example of how the proposed measure is contrary to consumers' interests is when the regulated entity may sell or transfer an asset that has a net book value of zero. As noted above, there may still be useful life in the asset even though the net book value is zero. If the asset is sold at a profit without Commission approval and the gain on sale is not reflected as an offset to the regulated entity's costs, the profit on the asset – which has been paid for by consumers through Commission approved rates - will not accrue to the consumers' interests. A common issue related to this is when a regulated entity transfers such an asset to an unregulated affiliate company at no cost even though the asset is still useful. This practice allows the unregulated affiliate to be subsidized by regulated customers since the regulated customers were not compensated for the remaining market value.

For that reason, the Department appreciates the S.D.1 version of this bill, which includes the provision that the fully depreciated asset or property with a zero net book value must also be no longer used and useful. The inclusion of this language mitigates the possibility that the regulated utility will sell or transfer an asset or property with remaining useful life and market value without ensuring such sale or transfer results in benefits to consumers.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF
LEODOLOFF R. ASUNCION, JR.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

March 14, 2023
2:00 p.m.

Chair Nakashima, Vice-Chair Sayama, and Members of the Committee:

MEASURE: S.B. No. 476, SD1

TITLE: RELATING TO THE PUBLIC UTILITIES COMMISSION.

DESCRIPTION: Exempts a public utility from the required public utilities commission authorization when disposing at a loss or donating a fully depreciated asset or property with a zero net book value that is no longer used or useful. Effective 7/1/2050. (SD1)

POSITION:

The Public Utilities Commission (“Commission”) offers the following comments for consideration.

COMMENTS:

The Commission appreciates the intent of this measure to promote efficiency by exempting a public utility from the required Commission authorization when disposing of a fully depreciated asset or property with a zero net book value. The Commission appreciates the Senate Committee on Commerce and Consumer Protection’s consideration of our previous testimony and agrees with the modifications provided aimed at ensuring that the Commission retains the ability to review transactions for assets at a gain and that are still used or useful.

Thank you for the opportunity to testify on this measure.



To: The Honorable Chair Mark Nakashima, the Honorable Vice Chair Jackson Sayama, and Members of the Committee on Consumer Protection and Commerce

From: The Climate Protectors Hawai'i (by Ted Bohlen)

Re: **Hearing SB476 SD1 RELATING TO THE PUBLIC UTILITIES COMMISSION**

Hearing: Tuesday March 14, 2023, 2:00 p.m., room 329

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee on Consumer Protection and Commerce:

The Climate Protectors Hawai'i seeks to educate and engage the local community in climate change action, to help Hawai'i show the world the way back to a safe and stable climate.

The Climate Protectors Hawai'i OPPOSES SB476 SD1!

In my legal career, I worked as an Assistant Attorney General and Consumer Advocate in two states for over 13 years. Based on my experience, allowing utilities to sell assets that are fully depreciated or have a zero book value for accounting purposes, without authorization by the Public Utilities Commission (PUC), is **very unfair to consumers**, who have supported the asset in rates throughout its service life. Consumers, who have paid for the asset, should benefit from any potential windfall gained from the sale of a fully depreciated or zero net book value asset that has actual value, especially if it is transferred to a non-utility affiliate. The PUC and Consumer Advocate should participate in deciding how much of the windfall should go to consumers, as they ordinarily do today.

The PUC and the department of the Consumer Advocate did not request or support this bill. The Consumer Advocate asked that the bill be held.

The Climate Protectors Hawai'i appreciate the amendments made by the Senate Committee on Consumer Protection and Commerce in SD1 that limit the transfers without PUC review to assets that are disposed at a loss, donated, or no longer "used and useful" (physically in use and of value to ratepayers.) However, the bill as amended would not efficiently avoid administrative proceedings, as the PUC should still determine whether an asset is "used and useful." **This bill is unnecessary.**

Please hold or defer this anti-consumer bill!

Mahalo!

Climate Protectors Hawai'i (by Ted Bohlen)



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

S.B. 476 SD1

Relating to the Public Utilities Commission

Tuesday, March 14, 2023

2:00 pm

State Capitol, Conference Room 329 & Videoconference

James Abraham
Associate General Counsel, Legal Department
Hawaiian Electric

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

My name is James Abraham and I am testifying on behalf of Hawaiian Electric **in support, with a suggested amendment,** of S.B. 476, SD1.

This bill will allow public utilities to streamline the process of selling, donating, or otherwise disposing of property that is fully depreciated or has a zero net book value. Although these types of assets have fulfilled their usefulness with the utility, the utility may nevertheless be able to recover some value for the benefit of its customers or the community. However, current law requires utilities to go through the administrative process before the Public Utilities Commission (PUC) to obtain approval for each asset or property it seeks to dispose of or donate. As these assets often have minimal remaining value, the benefit of going through a PUC proceeding may be outweighed by the burden of the time and resources required. This bill will allow utilities to efficiently transfer, donate, or dispose of these assets and decrease the workload for the PUC and Division of Consumer Advocacy, which currently must spend resources reviewing these generally routine and non-controversial transactions.

Hawaiian Electric has concerns that qualifying language contained in subsection (a)(2) of S.B. 476, SD1 will likely eliminate any benefits intended by this bill. The

language states that the public utility must dispose at a loss or donate a fully depreciated asset in order to be exempt from obtaining prior PUC authorization to do so. However, existing regulatory accounting rules generally preclude this condition from occurring.

Under the FERC accounting rules that the PUC approved for use by Hawaiian Electric, the Company would record neither a gain nor a loss when it retires an asset. It would reduce both the applicable plant in service and accumulated depreciation accounts by the original cost of the asset. Even if the Company sells the asset, it would record the sales amount as an increase to accumulated depreciation, which would reduce the Company's rate base. In effect, this would transfer the benefit of the sale to ratepayers when base rates are established. The "at a loss" condition would require the Company to always obtain prior PUC authorization to dispose of such assets, unless it is donating the asset, and would negate the administrative streamlining that this bill intends to achieve. Therefore, **Hawaiian Electric suggests the following modifications to subsection (a)(2), starting on page 1, line 15:**

- (2) The public utility is disposing of [~~at a loss~~] or donating a fully depreciated asset or property with a zero net book value that is no longer used or useful.

Accordingly, Hawaiian Electric supports S.B. 476, SD1. Thank you for this opportunity to testify.