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

TO THE
SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

Tuesday, February 21, 2023
10:00 A.M.

Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

MEASURE: S.B. No. 72, SD1
TITLE: RELATING TO RENEWABLE ENERGY.

DESCRIPTION: Beginning July 1, 2023, requires the Public Utilities Commission to render decisions on certain renewable projects, power purchase agreements, and cost recovery applications within one hundred eighty days of the filing of the application. Exempts certain power purchase agreement amendments from the Public Utilities Commission review and approval process in certain circumstances. 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. Takes effect 6/30/2023. (SD1).

POSITION:

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

COMMENTS:

The Commission appreciates the intent of this measure to expedite the development and commissioning of renewable energy projects and offers the following comments.

While the Commission agrees with the Committee on Energy, Economic Development, and Tourism's decision to remove the automatic approval provision from the previous version of this bill and appreciates its consideration of the Commission's concerns, the

Commission maintains that the remaining provisions of this bill are not only unnecessary, but potentially harmful to the general public, including ratepayers.

Specifically, the Commission requests that Sections 2a, 2b and 3 be reconsidered.

Section 2a

Relating to Section 2a, the Commission believes that imposing deadlines for decisions may not be necessary because the Commission has rendered timely decisions for PPA applications (e.g., in 4 to 5 months), and in exceptional cases has required more time due to delays outside the control of the Commission, such as appeals or contested cases requiring additional time to allow for due process. Additionally, the Commission recently approved a proposed change to Hawaiian Electric's RFP process which will reduce the necessary approvals from the Commission from two to one approval per project. However, if the legislature desires to impose this deadline, the Commission recommends adding certain provisions to the applications to ensure the deadline can be met. The Commission recommends the following additional conditions to Section 2a:

> (a) Relating to applications filed on or after ~~Beginning~~ July 1, 2023, the public utilities commission shall approve, approve with modifications, or deny matters for proposed:
>
> (1) Renewable projects developed by a public utility;
>
> (2) Renewable energy power purchase agreement applications;
>
> (3) Projects to connect renewable facilities to the electric grid; and
>
> (4) Cost recovery applications for required substation and infrastructure upgrades, filed with the commission within one hundred eighty days of the filing. In carrying out this mandate, the public utilities commission shall set and enforce a procedural schedule that allows the commission to meet the one hundred eighty-day period. If the application is not approved, approved with modification, or denied by the commission within one hundred eighty days, the commission shall report the reasons therefor to the legislature and the governor in writing within thirty days after the expiration of the one hundred eighty-day period.

(b) In making its determinations for such applications, the commission shall:

(1) Require the filing of an application that includes, at a minimum, standard required information to support a determination of the reasonableness of the proposed project, the necessity of the project at the proposed costs, a demonstration of community support, and other commission guidelines to allow expeditious review of a requested project. The Commission shall determine what information is necessary to include in such applications for each type of project or proposal;

(2) Require that the project, to the fullest extent possible, has received the necessary approvals from the relevant government agencies prior to filing its application;

(3) Allow for Parties to submit a mutually agreeable request for an extension to the procedural schedule to allow for reasonable time to review; and,

(4) Not be required to file a report to the legislature and the governor if any of the prior conditions are not met.

Section 2b

Relating to Section 2b, the Commission believes that exempting from Commission approval any PPA amendment that reduces the unit price of energy or energy potential from the previously approved PPA could have negative consequences on ratepayers and the general public. For example, if an independent power producer and a utility negotiate a PPA amendment that includes terms that are not in the best interest of an outside party, including the ratepayers, the Commission would not have the opportunity to review and reject such terms. Further, allowing PPA extensions to circumvent Commission approval could give an unfair advantage to incumbent power producers and deprive ratepayers of opportunities to reap the benefits from new PPAs that may be more cost-effective. We would prefer that the exemption be removed altogether, but if this exemption is included, the Commission recommends the following additional conditions:

(b) (c) For any power purchase agreement previously approved by the public utilities commission, any subsequent amendments, filed on or after July 1, 2023, thereto shall not require approval of the public utilities commission; provided that:

(1) The power purchase agreement is for renewable generation,

(2) The amended power purchase agreement reduces the unit price of the combined energy payments, capacity payments, and any other payments, or the effective cost of the project,

(3) The effective cost of the project is lower than the average retail price per kWh of electricity produced by renewable generation on the utility system for the utility submitting the application for the entire term of the amended contract,

(4) The power purchase agreement does not include limitations on how it can be operated, such as minimum dispatch requirements, provisions for curtailment priority, or others, and

(5) The power purchase agreement is extended for no more than five years.

(d) The public utility requesting an amendment to a power purchase agreement shall submit, to the public utilities commission and all Parties to the original power purchase agreement proceeding, an informational filing. The contents of this information filing will be determined by commission order or rulemaking. This informational filing will be available for public review for a period of two months after which it shall not require further Commission action, unless it does not satisfy the requirements of the filing or there are concerns from the public or a Party which must be reviewed through a subsequent Commission proceeding.

Section 3

Relating to Section 3, the Commission believes that an expedited six-month timeline could jeopardize Parties' due process rights, including the right to the discovery process and hearings. The Commission and Parties to proceedings must follow a procedural schedule that allows for the time necessary to build a strong evidentiary record, which for rate cases can result in Parties stipulating to rate increases much lower than originally requested by the utility, resulting in significant savings to ratepayers. Additionally, the Commission has consistently delivered timely decisions for rate cases.

The Commission notes that Parties often file requests with the Commission seeking exemptions to the six-month timeline that currently exists for public utilities under a certain

size, and instead request a nine-month timeline for Commission and Party review. Decreasing the nine-month timeline to a six-month timeline for larger utilities would likely only increase the number of requests for exemption to this requirement. Especially in the case of ratemaking proceedings allowing for increases in rates, fares and charges, the Commission requires sufficient time to review the reasonableness of the increases to avoid negative impacts to ratepayers. Therefore, the Commission recommends reverting the language in Section 3 to nine-months or including a budget request for additional funds and staff members to ensure the expedited deadlines can be met with proper resources to conduct the necessary due diligence. However, if the Legislature seeks to change the requirement to six-months, the Commission recommends adding language to Section 3 which allows for Parties, by mutual agreement, to request extensions to the time requirement.

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIAʻĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIAʻĀINA

STATE OF HAWAII | KA MOKUʻĀINA ʻO HAWAIʻI
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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 21, 2023
10:00 a.m.
Conference Room 229

On the following measure:
S.B. 72, S.D. 1, RELATING TO RENEWABLE ENERGY

Chair Keohokalole 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: (1) require the Public Utilities Commission (Commission), beginning July 1, 2023, to render decisions on certain renewable projects, power purchase agreements, and cost recovery applications within one hundred eighty days of the filing of the application; (2) exempt certain power purchase agreement amendments from the Commission's review and approval process in certain circumstances; and (3) for ratemaking proceedings, require the Commission to complete its deliberations and issue its decision before six months from the date a public utility has filed its application for approval.

The Department offers the following comments.

While the Department supports the efficient operations of government, the Department observes that the majority of recent power purchase agreements have been approved on a timely basis. When there have been delays in the projects reaching commercial operations, those delays relate to: (1) time required to transmit necessary project design information between the developer and utility to insure safe and reliable service; (2) issues encountered by the developer during construction after Commission proceedings are finished; (3) interconnection study issues; and (4) situations where litigation and appeals related to the project must be addressed. So, the proposed time limits of Section 2 of this bill may be difficult for the Commission to balance with its constitutional obligation to provide adequate procedural steps for those parties' due process rights, such as evidentiary hearings as well as other unintended consequences. If the proposed time limit is adopted, it could have the opposite of the intended effect where projects may be delayed by appeals and other legal challenges. If this measure advances, the Department respectfully suggest that some flexibility be allowed to accommodate contested proceedings.

Next, the Department notes how the proposal under proposed HRS § 269-_(b) provides an exemption from Commission review, entirely, for certain power purchase agreement amendments that would only be triggered when the amendment reduces "the price of energy or energy potential from the previously approved power purchase agreement". The Department assumes that this proposal is also in the interest of administrative efficiency but, even though well-intended, the proposed amendment does not appear to be in customers' interests. For example, when an already approved agreement reaches the end of the original term, if the new agreement reduces the rate by, say, only one penny per kWh, it would not require Commission review. Given that there have been decreases in costs of renewable projects in recent years, denying an opportunity to determine whether contract prices should be even lower would mean that customers could be asked to bear higher than reasonable costs. If, however, all of the projects' costs have been recovered through the original term of the contract, allowing the new price, even at one penny less per kWh, would require customers to pay a rate that might provide the developer potentially significant profits over the new term of the

amended agreement. Furthermore, other non-price terms of an amendment could create unintended risks for utility customers. For instance, there are more components to power purchase agreements beyond the price of energy. So, if the price of energy decreases, say, by a penny, but other components increase, this would result in an overall increase in the contract, which would mean that customers would be paying an overall higher price and the Commission and the Department would be denied the opportunity to protect customers and the public interest. In addition, allowing such existing amended contracts to continue without review could discourage the possibility of a competitive procurement process (and eliminate the possibility of encouraging additional investment in the state and lowering energy prices). So, if this bill moves forward, the Department respectfully requests removing this subsection so that the Commission will still have the ability and opportunity to review all terms of power purchase agreement amendments in order to safeguard the public interest.

Given the title of the bill relates to renewable energy, to the extent that Section 3 of the bill is also meant to speed the completion of renewable energy projects, the proposed modification will not affect the timing of renewable energy projects that are subject to a purchased power agreement or self-built by utility companies. Since power purchase agreement costs are recoverable through energy cost adjustment clauses, cost recovery, rate cases do not inhibit the ability to enter into these agreements. For the Hawaiian Electric Companies, there are other surcharges that facilitate the recovery of costs that may be related to renewable energy costs, such as the exceptional project recovery mechanism and the renewable energy infrastructure surcharge. Given the pace of projects being constructed on Kauai, it is likely that the proposed changes in section 3 on the state's other electric utility, Kauai Island Utility Cooperative, would also be negligible.

If adopted, however, the proposed language to decrease the amount of time for traditional cost-of-service rate cases would adversely affect customers' interests of <u>all</u> regulated industries. The Department highlights that, as proposed, the proposed change to HRS § 269-16 would apply to all regulated utility companies and the Department has concerns on the ability to represent, protect, and advance consumers' interests if the

proposed modification is adopted. In order to evaluate requested increases in rates, the Department notes that the rate case process, which includes the discovery process and hearings, is necessary to analyze whether the requested increase is reasonable. The applications often lack sufficient documentation and evidence. Thus, the Department relies on the discovery process to seek information to evaluate whether the proposed increase is reasonable and it requires time for that evidence to be produced and provided. Only after analyses, which require time and discovery to obtain needed information, are completed, the Department is then able to provide recommendations for the Commission's consideration.

Under the current rules, even with its limited resources, the Department has been able to secure first-year savings exceeding $247 million over the last five fiscal years from settlements with utilities and/or Commission approved results in rate proceedings. If less time was available, those savings would likely not have been possible. The Department also respectfully urges the committee to consider that larger regulated companies and or complex rate increase requests require more time to review. Such larger and more complex applications will include supporting documents, which often exceed thousands of pages. For smaller utility companies, HRS 269-16f already provides an opportunity for quicker relief. Thus, restricting the time available to conduct the regulators' review will have unintended consequences that could result in all customers paying much more for their regulated utility services. Thus, the Department respectfully requests that section 3 of the bill also be excluded so that the Department's ability to adequately represent, protect, and advance consumers' interests is not impaired.

Thank you for the opportunity to testify on this bill.

To: The Senate Committee on Commerce and Consumer Protection (CPN)
From: Sherry Pollack, 350Hawaii.org
Date: Tuesday, February 21, 2023, 10am

In opposition to SB72 SD1

Aloha Chair Keohokalole, Vice Chair Fukunaga, and members of the CPN committee,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org **opposes SB72 SD1** that requires the Public Utilities Commission to render decisions on certain renewable projects, power purchase agreements, and cost recovery applications within one hundred eighty days of the filing of the application. This measure would exempt certain power purchase agreement amendments from the Public Utilities Commission review and approval process in certain circumstances. For ratemaking proceedings, this measure would 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.

SB72 SD1 is bad energy policy. Provisions in this bill, if enacted, would remove important public safeguards. We concur with testimony comments made by the Division of Consumer Advocacy which noted that the majority of recent power purchase agreements have been approved on a timely basis, and importantly, that the proposed time limits of Section 2 of this bill may be difficult for the Commission to balance with its constitutional obligation to provide adequate procedural steps for those parties' due process rights, such as evidentiary hearings, as well as having other unintended consequences. These unintended consequences could include outcomes that would adversely affect the interests of customers of all regulated industries, including outcomes that result in all customers paying much more for their regulated utility services, as well as the Public Utilities Commission being impeded from fulfilling its statutory mandate to consider the effects of its proposed decisions on greenhouse gas emissions.

Bottomline, SB72 SD1 will likely have negative consequences on ratepayers, the general public, and the climate, and as such, we urge the Committee to not pass this misguided measure.

Thank you for the opportunity to testify.

Sherry Pollack
Co-Founder, 350Hawaii.org

To: The Honorable Chair Jarrett Keohokalole, Vice Chair Carol Fukunaga, and members of the Senate Committee on Commerce and Consumer Protection

From: Climate Protectors Hawai‘i (by Ted Bohlen)

Re: Hearing SB72 SD1 **RELATING TO RENEWABLE ENERGY**

Hearing: Tuesday, February 21, 2023, 10:00 a.m., room 229

Aloha Chair Keohokalole, Vice Chair Carol Fukunaga, and members of the Committee:

The mission of the Climate Protectors Hawai‘i is 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 respectfully but STRONGLY OPPOSES SB72 SD1!

The Climate Protectors Hawai‘i appreciates the intent of SB72 SD1 to expedite the approval and completion of renewable energy projects. However, as the Public Utilities Commission (PUC) has testified, recent experience indicates **there is not a need for this legislation**. We appreciate the SD1’s removal of the unwise

automatic approval of rate filings not completed within 180 days. However, there still are two significant problems with the bill that make it imprudent:

1. **Section 2b should be stricken from the bill, at a minimum.** The exemption from PUC review for amendments to previously approved purchased power agreements (PPAs) will cause rates to be significantly higher than they should be at this time, when prices for solar and wind energy backed up with storage have been dropping well below some prior PPA rates. Existing projects making a small reduction from prior rates would be exempt from PUC review under SB72 SD1, but still leave the project's rates substantially higher than could be achieved by competitive bidding. **This exemption thus could unnecessarily and significantly harm residential and commercial ratepayers.**

   As the Public Utility Commission stated in testimony: "… exempting from Commission approval any PPA amendment that reduces the unit price of energy or energy potential from the previously approved PPA could have negative consequences on ratepayers or the general public. For example, if a counterparty and a utility negotiate a PPA amendment that includes terms that are not in the best interest of an outside party, including the ratepayers, the Commission would not have the opportunity to review and reject such terms, if the PPA featured a reduced unit price or a reduced energy potential. Further, if a PPA reaching the end of its term could circumvent Commission approval through a PPA with a reduced unit price or reduced energy potential, this could give an unfair advantage to incumbent power producers and defy ratepayers of opportunities to reap the benefits from new PPAs that may be more cost-effective."

   The Department of the Consumer Advocate also urged the Legislature "to consider removing this particular subsection so that the Commission will still have the opportunity to review all terms of purchase power agreement amendments in order to safeguard the public interest."

2. **Section 3 should not be approved for complex rate matters or controversial projects.** This provision to require PUC approval within six months for rate proceedings, however well intentioned, also would be very detrimental to ratepayers. It purports to expedite approval of renewable projects, but as the

Consumer Advocate testified, in fact **it would not affect the timing of clean renewable energy projects** that are built by the utility or subject to a purchased power agreement. It would apply instead to some complex rate filings and large energy projects, where six months generally does not allow sufficient time for the PUC and consumer representatives to obtain information, develop positions, and issue decisions. Utilities and project developers would benefit from the lack of review in a truncated six month review period, while ratepayers would suffer. I speak from personal experience—I represented consumers on utility rate matters in another state that switched from nine to six months for rate reviews; the result was very harmful to ratepayers.

The PUC testified against this provision: "Especially in the case of ratemaking proceedings, allowing for increases in rates, fares and charges, without sufficient time to review the reasonableness of these increase would have negative impacts on the ratepayer. Therefore, the Commission recommends reverting the language in Section 3 to 9-months or including a budget request for additional funds and staff members to ensure the expedited deadlines can be met with proper resources to conduct the necessary due diligence."

The Consumer Advocate similarly testified that these time limits "… may be difficult for the Commission to balance with its constitutional obligation to provide adequate procedural steps for those parties' due process rights, such as evidentiary hearings as well as other unintended consequences."

Thank you for the opportunity to submit written testimony. **Please protect consumers by deferring this damaging SB72 SD1!**

Mahalo!

Climate Protectors Hawai‘i (by Ted Bohlen)

TESTIMONY BEFORE THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

S.B. 72 S.D. 1

Relating to Renewable Energy

Tuesday, February 21, 2023,
10:00 a.m., Agenda Item #2
State Capitol, Conference Room 229 & Video Conference

Rebecca Dayhuff Matsushima
Vice President, Resource Procurement
Hawaiian Electric

Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee,

My name is Rebecca Dayhuff Matsushima and I am testifying on behalf of Hawaiian Electric in **support, with revisions,** of S.B. 72 S.D. 1, Relating to Renewable Energy.

Timely completion and successful development of renewable projects is critically important to Hawaiian Electric for several reasons including meeting the State's Renewable Portfolio Standards ("RPS"), reducing reliance on fossil fuels, stabilizing and reducing volatility of our customers' bills, reducing greenhouse gas emissions, and assisting with post-pandemic economic recovery. We must all work together to achieve our decarbonization goals and implementing such change requires cooperation between all stakeholders, including Hawaiian Electric, developers, the community, agencies, and regulators.

S.B. 72 S.D. 1 proposes to amend HRS Section 269 to add a new section which would (1) require the Public Utilities Commission ("PUC) to render decisions on certain applications within 180 days of filing; (2) exempt certain PPA amendments to

previously approved PPAs from PUC review and approval; and (3) amend HRS Section 269-16 to shorten the timeframe for review of rate cases.

As the PUC noted in its testimony, the PUC has for the Company's Stage 1 and Stage 2 RFPs worked to approve the majority of PPAs, with the exception of the Company's self-build proposals which are still pending approval, within three to four months of submittal, validating that the 180 day timeframe proposed in S.B. 72 S.D. 1 is feasible. The Company also notes that the PUC has recently approved several amendments in three months or less. The Company appreciates the PUC's expedited review in these instances. Although the PUC is currently meeting the proposed timelines in most instances, future commissions may not be so inclined. Adopting S.B.72 S.D.1 would ensure the timeliness of approvals continues in the future.

Hawaiian Electric believes that having set timeframes for the PUC to render a decision on certain renewable projects, power purchase agreements, and cost recovery applications would result in many benefits. Such a requirement significantly reduces uncertainty in the regulatory timeline, which would result in less contingency and lower pricing in project proposals, providing greater certainty for stakeholders. To further aid the speed in which renewable energy projects can be added to the grid, Hawaiian Electric suggests adding "**Request for Proposals for Renewable Energy and Storage Projects**" to the list of enumerated items in part (a) of Section 1 of the bill.

Hawaiian Electric agrees with the PUC and CA that exempting any PPA amendment that reduces the unit price of energy or energy potential from the previously approved PPA, may not necessarily have the best results for our customers. For example, at the end of a PPA, if a PPA Amendment is submitted with a rate reduction of $0.01/kWh, it would not require Commission review, even if projects being

contracted at that time are coming in at much lower rates. Therefore, we suggest deletion of part (b) on page 5, lines 10-15 as shown:

> ~~**(b) For any power purchase agreement previously approved by the public utilities commission, any subsequent amendments thereto shall not require approval of the public utilities commission; provided that the amended power purchase agreement reduces the unit price of the energy or energy potential from the previously approved power purchase agreement**~~

A better alternative would be for the PUC to use its discretion to determine whether an amendment results in a material change that requires PUC approval. Further, Hawaiian Electric agrees with the PUC, that no changes are necessary to the timelines set forth in Section 3 of the bill revising timelines in HRS § 269-16.

Hawaiian Electric appreciates the PUC's concerns regarding staff resources. Hawaiian Electric understands the potential stress that expedited approvals without additional staffing resources may put on the limited PUC and consumer advocate staff. Hawaiian Electric supports additional staffing for these agencies in order to meet the state's ambitious renewable energy and carbon reduction goals.

Thank you for this opportunity to comment on S.B. 72 S.D. 1.

Environmental Caucus of The Democratic Party of Hawai‘i

To: The Honorable Jarett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair, and Members of the
Senate Committee on Commerce and Consumer Protection

Re: SB 72 – Relating to Renewable Energy

Hearing: Tuesday, February 21, 2023, 10:00 am, Room 229 & videoconference

Position: **Strong Opposition**

Aloha, Chair Keohokalole, Vice Chair Fukunaga, and Committee Members:

The Environmental Caucus of the Democratic Party of Hawai‘i has 7,500 enrolled members who are politically active and strong supporters of the environment. As Co-chairs of the Caucus, we **strongly oppose SB 72.** This bill would amend HRS Chapter 269 to impose artificial time limits for the Public Utilities Commission (PUC) to consider applications for approval of applications for various types of permits for delivery of renewable energy," and to cut the existing limit in HRS §269-19 from nine months to six months.

This is a VERY BAD BILL. It prevents the PUC from having adequate time to consider and respond effectively to some of the very most important filings that the PUC is obliged to consider. There is no safety valve whatever to deal with flawed filings - incomplete, inaccurate, dishonest, vague, and otherwise defective.

It represents very bad policy in administrative law: policy that is so bad that we frankly doubt that this bill's advocates can point to laws similar to this bill in any other state in the country. Other states recognize that imposing artificial time limits on administrative authorities similar to our PUC put balanced administrative consideration at a **severe disadvantage** vis-à-vis an applicant's proposal.

If this very bad bill is allowed to move forward, an amendment is needed to provide for tolling periods whenever the PUC needs an application to be supplemented and/or corrected. Moreover, what happens if/when the PUC receives two major filings around the same time and must devote limited resources to both, risking a tradeoff between failure to meet the deadline vs. doing a bad job at analysis?

Please defer this bill. Thank you very much for the opportunity to submit testimony.

Alan B. Burdick and *Melodie Aduja*, co-chairs
Environmental Caucus of the Democratic Party of Hawai‘i
Burdick808@gmail.com 808-927-1500
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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

DATE: Tuesday, February 21, 2023
TIME: 10:00 AM
PLACE: Conference Room 229

SB 72, SD1 RELATING TO RENEWABLE ENERGY. **OPPOSE**

Aloha Chair Keohokalole, Vice Chair Fukunaga 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 53 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.

HECO`s Stage 3 Request for Proposals is a 6-to-12-year process to bring on new renewable energy systems includes just one (1) year for PUC review of all the projects.

HECO plans to make a massive filing of Power Purchase Agreements to the Public Utilities Commission circa November 2024 (1390 GWh of variable renewables and up to 740 MW of firm renewables).

This bill asserts that the PUC review process should be slashed from 12 months to six months.

The bill would also override the PUC and approve the Hu Honua project.

2022	February 18	PUC Proposed Stage 3 RFP for O`ahu and Maui
2022	December 1	PUC Approves Final RFP
2023	January 20	HECO Issues Final RFP
2023	April 20	IPP Proposals Due
2023	October 27	Selection of Final Award Group
2023	November 3	Interconnection Requirements Study & Contract Negotiations Begin
2024	**November**	**Submittal of Power Purchase Agreements to PUC**
2025	**November**	**PUC Approval Process Completed for Non-contested PPAs**
2027	December 1	MECO: 425 GWh of variable renewable dispatchable generation, and at least 40 MW of renewable firm capacity
2027	December 1	HECO: 965 GWh of variable renewable dispatchable generation in service
2029	December 31	HECO: 300-500 MW of renewable firm capacity in service
2033	December 31	HECO: 200 MW of renewable firm capacity in service

Mahalo

Henry Curtis

SB-72-SD-1
Submitted on: 2/18/2023 9:24:03 AM
Testimony for CPN on 2/21/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

SB72 seems like a reasonable measure to improve the permitting process for new renewable energy projects. We will have to move nimbly to meet our goals to reduce our impact on the climate.

SB-72-SD-1
Submitted on: 2/18/2023 3:32:17 PM
Testimony for CPN on 2/21/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
David Hunt	Individual	Oppose	Written Testimony Only

Comments:

Senators,

SB72 is, plain and simple, extremely bad energy policy in the disguise of legislative reforms. SB72 would clearly harm the advancement of lower cost, clean energy options. SB72 is anti-competitive and anti-democratic. It is also suspect.

The PUC is charged with representing and protecting the public interest. The courts are charged with seeking justice. Why is it, when Senator Dela Cruz and Sen. Wakai, and Sen. Inouye do not like the results from the PUC (and the Hawaii District, Appeals, and Supreme courts), IE., the process established to protect consumers (PUC) and ensure justice (the courts), that they attempt to seek the "deal" that SB72 affords to special interests? SB72 is a clear attempt to circumvent that due process and legal decisions.

I firmly believe that SB72 is the worst example of "Pay to Play" as demonstrated in the ***first Civil Beat article below entitled "Hu Honua Lobbyist Hosted Fundraiser For Senators Who Were Key To Energy Bill"*** and describing Dela Cruz and Wakai's SB2510.

Sen. Dela Cruz and Sen. Wakai, (aided by Sen. Inouye) attempted a similar ploy in the 2022 Session with their SB2510, which afforded another special deal for Hu Honua.

Sen Dela Cruz's manipulation, threatening, and bullying tactics to pass SB2510 were the subject of the ***second article below, entitled "How A Powerful Lawmaker Forced Through A Contentious Energy Bill."***

In his wisdom, and responding to public outcry and whistleblowing, Governor Ige vetoed SB2510 with the comment that there was ***nothing*** good about SB2510

Must those of us, whom you are hired to represent, continue to point out to you that overriding due process is anti-democratic?

The authors might claim to be focused on business, economic development, and energy security.

They say they are worried about alternative energy not being reliable. They will claim falsely that biomass plants will be CLEAN, renewable, reliable firm power.

I firmly believe that there claims are distractions. In the case of Hu Honua, the PUC has decided that Hu Honua was not what the authors claim. The courts have upheld that decision.

Whatever SB72 sponsors' expressed motives are, SB72 is inconceivably short-sighted and contrary to the public interest. It IS, however in the interest of Hu Honua.

Hu Honua has demonstrated arrogant disregard for Hawaii state and county regulations and law (arrogantly building without the required permits and violating state energy and environmental policies, requirements, and laws). Hu Honua has instead used political contributions, PR misinformation campaigns, un-registered (illegal) lobbying, endless court appeals, and good-ol-boy backroom special favors and dealings to continue to stall, delay, disrespect, and circumvent the laws, regulations, and requirements that every other modern energy facility has followed. The PUC and the courts have spent thousands of collective hours indulging this spoiled, entitled, un-restrained, tantruming child that is Hu Honua. And yet, Sens. Dela Cruz, Wakai, and Inouye bring SB72 to you to try to decipher, understand, and decide.

I suspect their tactics will be similar to those used with SB2510 last year.

It is time for Senators, who have integrity and conscience, and who place the interest of their constituents above a wealthy special interest that has been found by the PUC to NOT be in the public interest (and legally supported by numerous court decisions) - it is time for you to say ENOUGH. SB72 must not pass and I ask you to vote no.

The PUC is required to represent the best interest of the public. If only those behind SB72 were held to the same requirement. The PUC and the district, appeals, and supreme courts have to date acted judiciously, fairly, and expediently in upholding this requirement and trust. To remove this permitting process is to simply remove the public's best interest.

I personally believe that SB72 (and SB2510) ***authors*** should be held responsible for this bill and their actions, ESPECIALLY in this time of Legislative Ethics review, oversight, and suggested changes to rebuild the public's ailing trust.

Please read these 2 very important and relevant investigative reports BEFORE you vote on SB72.

Hu Honua Lobbyist Hosted Fundraiser For Senators Who Were Key To Energy Bill

https://www.civilbeat.org/2022/06/hu-honua-lobbyist-hosted-fundraiser-for-senators-who-were-key-to-energy-bill/

How A Powerful Lawmaker Forced Through A Contentious Energy Bill

https://www.civilbeat.org/2022/05/how-a-powerful-lawmaker-forced-through-a-contentious-energy-bill/

Additional related documentation:

PUC Decision:

https://www.civilbeat.org/2022/05/hawaii-utility-regulators-reject-hu-honua-biomass-power-plant/

"Out of Bounds" Unregistered Lobbying":

https://www.civilbeat.org/2022/12/out-of-bounds-nba-star-kevin-johnson-pushes-hard-as-point-man-for-hawaii-energy-project/

Unpermitted, Entitled, Arrogant, and Illegal

"HI CO DPW Notice of Violation and Order against Hu Honua" (COPY of titles & 1st Paragraph)

November 18, 2022

Mr. Warren H. W. Lee, P.E. President

Honua Ola Bioenergy

120 Pauahi Street, Suite 201 Hilo, Hawai'i 96720

SUBJECT: NOTICE OF VIOLATON AND ORDER

Location: 28-283 Sugar Mill Road, Pepeekeo Hawaii

Tax Map Key (3) 2-8-008:104

Dear Mr. Lee:

The County ofHawai'i, Depaitment ofPublic Works - Building Division ("DPW BLDG") is serving Honua Ola Bioenergy a Notice ofViolation and Order ("NOV/Order") for multiple structures that were completed without permits, and/or were completed without the required inspections. The subject structures are located at 28-283 Sugar Mill Road, Pepeekeo Hawaii, Tax Map Key (3) 2-8-008:104 ("the site"). Structures on the site built without permits or constuction inspections are in violation ofthe Hawai'i County Code ("HCC") and require immediate attention.

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Hearing on Feb. 21, 2023 at 10:00 am

OPPOSING SB 72

My name is John Kawamoto, and I oppose SB 72.

This bill is problematic because it would hasten the approval of Hu Honua, a project that first submitted an application for approval 10 years ago. Hu Honua remains unapproved because it has not been able to meet PUC requirements.

That is fortunate for the customers of Hawaiian Electric on Hawaii Island because Hu Honua would increase their electricity rates. Hu Honua would sell electricity to Hawaiian Electric starting at 22 cents per kilowatt-hour, increasing to 44 cents per kilowatt-hour. By contrast, Hawaiian Electric is now buying electricity from the new Waikoloa Solar + Storage project on the Big Island for only 9 cents per kilowatt-hour. Solar is now the cheapest form of energy. More solar is needed, and more solar projects are planned for Hawaii Island.

Supporters of Hu Honua say that Hawaii needs at least some "firm" energy which is always available, and that Hu Honua would provide it. But "firm" energy has proven to be a myth. Oil is considered to be "firm," and Hamakua Energy uses it to generate electricity. Hamakua Energy was shut down for weeks because of supply chain disruptions. It could not get ammonia, which it needs for pollution control.

The Hamakua Energy experience shows that facilities that generate electricity using materials that are subject to supply chain disruptions are not "firm." Hu Honua would at first burn trees grown on Hawaii Island, but when the trees are used up, Hu Honua would import trees to Hawaii. Since that would subject Hu Honua to supply chain disruptions, its energy would not be "firm."

By comparison, reliability can be assured with solar because the cost of battery storage has been dropping. If enough battery storage is paired with solar, the system will be reliable. Once installed, solar plus battery storage is immune to supply chain disruptions.

This bill claims that it will ensure the timely processing of renewable energy projects by the Public Utilities Commission (PUC). However, there is nothing wrong with PUC's review process. It is true that renewable energy projects were being delayed, but that was due to supply chair disruptions caused by the coronavirus pandemic, and not PUC's review process.

Supply chain issues have eased, and new renewable energy projects are already generating electricity for Hawaii's families. In fact, Hawaiian Electric has 20 renewable energy projects that have been approved to move forward. There is no empirical evidence that this bill is needed – or even desired.

There is more that is wrong with this bill. It is based on a false assumption. In Section 1 Hawaii's net negative emissions goal is cited as the reason for the bill. The assumption is that all forms of renewable energy do not emit greenhouse gases.

The truth is that only certain forms of renewable energy do not have emissions, and these are clean as well as renewable. An example is solar energy. Other forms of renewable energy have emissions, so they are dirty even though they are renewable.

Burning trees to generate electricity, which is what Hu Honua would do, is renewable and dirty. Burning trees generates more greenhouse gases than burning coal to produce an equivalent amount of electricity, and coal is considered to be a very dirty form of energy.

Although trees are technically renewable, it takes decades to re-grow a forest until it begins to sequester carbon dioxide. During these decades the carbon dioxide emitted when the trees were burned remain in the atmosphere. Climate scientists say that we have less than 10 years to take the drastic action necessary to avoid severe widespread disasters resulting from climate change.

This bill will not help Hawaii reach its net negative emissions goal. By assisting Hu Honua, it will contribute to climate change, and it will increase electricity rates for Hawaii Island residents. For the sake of the livability of the Earth and for the sake of controlling the cost of living for consumers, the committee should hold the bill.

SB-72-SD-1
Submitted on: 2/19/2023 8:45:38 PM
Testimony for CPN on 2/21/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Hansen	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please OPPOSE this bill!

It is bad energy policy in disguise of legislative reforms. It will clearly harm the advancement of lower cost, clean energy options.

It is contrary to the public interest...it is however, in the interest of Hu Honua, who has demonstrated arrogant disregard for Hawaii state and county regulations and law. The PUC and the courts have spent thousands of collective hours analyzing why Hu Honua should not proceed. And yet, now we have this bill— SB72. Perhaps this is similar to those tactics used with SB2510 last year.

It is time for Senators, who have integrity and conscience and and who place the interest of their constituents above a wealthy special interest that has been found by the PUC to NOT be in the public interest (and legally supported by numerous Hawaii court decisions)-- to OPPOSE this bill.

Mahalo, Elizabeth Hansen, Hakalau HI 96710

SB-72-SD-1
Submitted on: 2/19/2023 9:08:39 PM
Testimony for CPN on 2/21/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Rodger Hansen	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please OPPOSE this bill!

It is bad energy policy in disguise of legislative reforms. It will clearly harm the advancement of lower cost, clean energy options.

It is contrary to the public interest...it is however, in the interest of Hu Honua, who has demonstrated arrogant disregard for Hawaii state and county regulations and law. The PUC and the courts have spent thousands of collective hours analyzing why Hu Honua should not proceed. And yet, now we have this bill— SB72. Perhaps this is similar to those tactics used with SB2510 last year.

It is time for Senators, who have integrity and conscience and and who place the interest of their constituents above a wealthy special interest that has been found by the PUC to NOT be in the public interest (and legally supported by numerous Hawaii court decisions)-- to OPPOSE this bill.

Mahalo, Rodger Hansen, Hakalau HI 96710

Environmental Caucus of
The Democratic Party of Hawai'i

Energy & Climate Action Committee

Tuesday, February 21, 2023, 10:00 am

Senate Committee on Commerce and Consumer Protection
SENATE BILL 72 – RELATING TO RENEWABLE ENERGY

Position: Strong Opposition

Me ke Aloha, Chair Keohokalole and Vice-Chair Fukunaga:

SB72 sets a hard deadline for PUC decisions on certain renewable projects, power purchase agreements, and cost recovery applications.

The Environmental Caucus supports a timely permitting process by the Public Utilities Commission (PUC) but not an abridged process that threatens the public interest and public values. It is not clear that SB72 is an appropriate tool in our circumstances. Facts already in the public sphere raise questions about some idealistic ideas dispensed without evidence as to the reasons for this bill, in Section One. This bill expresses nervous concern, inviting premature judgment through a multitude of substantive and process issues. Faulty filings too expediently approved, then brought into question under standard procedures, would be locked in. The bill appears to have a specific application, and is completely inappropriate to public decision-making.

The authors are on record that more expensive, grossly carbon-emitting, already obsolete sources of electrical power should be enabled despite the ability to make alternative decisions favoring cheaper sources, with repaired supply chains coming available. They have disabled efforts to disincentivize grossly greater greenhouse gas emitting sources in the name of "firm power", disregarding provided evidence both that these sources are not so firm and that clean renewables can be. The world is moving in a different direction, with technology in the lead, and Hawaii can be at the forefront of this change. The Caucus recognizes the challenges ahead and favors providing the proper incentives for phasing out the old and phasing in the new. It will require time and effort to transition to this updated modern system, and we can do it right. We do not need to panic.

The Public Utilities Commission (PUC) functions with deliberate care and speed in a complex environment. It is in the public interest to proceed with due care, despite our eagerness to act promptly to avoid contributing to climate catastrophe. Advances in truly renewable, clean sources of energy and their ability to provide power 24/7 with battery storage have been coming down in price and accessibility, cheaper than carbon-emitting sources, resulting in savings for rate payers. This the direction we want to go.

The planning and action front in this effort has moved to upgrading the grid, and this poses unique challenges for the energy-providing community that the PUC must consider, without rushing to judgment to approve expensive new polluting carbon emission plants that threaten our survival and the raising of consumer electricity rates. A qualifying example for this idea would actually raise electricity costs on Hawai'i Island.

Moreover, the bill lacks the essential proviso wherein challenges to the completeness or verity of an application should suspend or "toll" the process, even if beyond the specified time period. Automatic approval of a flawed filing has always been contrary to the public interest.

The Caucus joins both the PUC and the Consumer Advocate in believing that this inappropriate bill should be rejected. Please note their opositional testimony.

Mahalo for the opportunity to address this matter.
/s/ Charley Ice & Ted Bohlen, Co-Chairs, Energy and Climate Action Committee
Environmental Caucus of the Democratic Party

LATE

SB-72-SD-1
Submitted on: 2/20/2023 2:44:07 PM
Testimony for CPN on 2/21/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tiffany Dame	Testifying for Citizens' Caucus	Oppose	Written Testimony Only

Comments:

Citizens Caucus opposes this Bill. The PUC should be permitted to do its statutory duties. In order to ensure that PPA's are in the public interest they require thoughtful consideration by the PUC. Discovery, Testimonies, and Evidentiary Hearings take time and cannot be rushed. Just because a PPA is cheaper, doesn't always means that it is in the best interest of the ratepayers. All factors, including GHG emissions, must be taken into consideration. This bill may violate Hawaii citizen's constitutional right to a clean environment. See, Supreme Court case, HELCO I.

Mahalo,

T.D., President

SB-72-SD-1
Submitted on: 2/20/2023 10:13:58 AM
Testimony for CPN on 2/21/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
jeanne wheeler	Individual	Oppose	Written Testimony Only

Comments:

I'm not sure if my previous testimony went through - I strongly oppose this bill, please do NOT pass it! JW

ADA HAWAI'I
AMERICANS FOR DEMOCRATIC ACTION

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Bill South
Michael Vernon

MAILING ADDRESS
P.O. Box 23404
Honolulu
Hawaii 96823

February 20, 2023

LATE

TO: Chair Keohokalole & Members of CPN Committtee

RE: SB 72 SD1 Relating to Renewable Energy

Opposition for Hearing on Feb. 21

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We oppose this bill as it would reduce the time limit for considering larger projects from nine months to six months. It appears highly illogical to impose on the PPUC strict time limits for consideration of the very largest projects but leave the smaller projects free of such limitations. This perhaps indicates that the bill has a specific hidden beneficiary. At any rate, it looks like bad policy.

Thank you for your consideration.

Sincerely,

John Bickel, President