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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Consumer Protection & Commerce
Tuesday, February 28, 2023
2:00 p.m.
Conference Room 329**

**On the following measure:
H.B. 367, 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 require the Public Utilities Commission (Commission) to issue a decision within six months from the date that a public utility has filed a financial application request to enter into any stock, certificates, bonds, notes, and other indebtedness arrangements.

The Department appreciates the intent of increasing administrative efficiency, which this bill may be attempting to do by expediting the timeline for the Commission to review applications by utilities requesting approval of any stock certificate, bonds, notes and other such arrangements as well as water carriers requesting approval of securities and leases. The Department offers, however, that this proposed measure will take away the current flexibility that may be required for more complex transactions and requests and may have unintended consequences.

To explain, the Commission's responsibility to review financial transactions protects consumers' interests by mitigating the possibility of the regulated utility or water carrier from entering into financial transactions that may result in unreasonable level of debt, high cost debt or equity, or leases. If such undesirable transactions are allowed, the result could be higher utility or water carrier rates and/or financial instability for the regulated company. Thus, in order for the Department to fulfill its responsibility to protect consumers' interests, we will analyze the requested approval of the proposed transaction to determine whether it is reasonable. For more complex transactions, there may be a need for more detailed discovery to allow the applicant to provide support for the proposed transaction and, if the proposed language is adopted, the Department and Commission may have insufficient time to properly review the proposed transaction.

Furthermore, under HRS § 91-10(5), any applicant still bears the burden of proof to earn approval for its request, including financing requests. So, if the applicant has not adequately supported its request and has not met its burden of proof within the prescribed timeframe, the Commission will appropriately deny the request because the bill's timeframe left inadequate time for the applicant to substantiate its request. Whereas, if the Commission were allowed to retain the current flexibility, the applicant would have a better opportunity to support its request to avoid the possibility of having to submit a second application seeking approval again, which would undoubtedly require additional time to submit.

Also, when a utility has a legitimate and articulable reason to seek approval by a date-certain, it can specify as much in its application. For example, in Docket No. 2022-0155, Young Brothers submitted an application on August 4, 2022, and requested an expedited Commission decision by November 23, 2022. The Commission filed an interim decision and order on November 23, 2022. There are other examples of similar expedited requests; thus, the need to impose a strict time frame and removal of flexibility is unnecessary. Thus, current regulator practices – without the proposed amendment – provides flexibility when needed but also addresses the need for expeditious regulatory actions as well.

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

February 28, 2023
2:00 p.m.

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

MEASURE: H.B. No. 367

TITLE: RELATING TO THE PUBLIC UTILITIES COMMISSION.

DESCRIPTION: Requires the public utilities commission to issue a decision within six months from the date that a public utility has filed a financial application request to enter into any stock, certificates, bonds, notes, and other indebtedness arrangements.

POSITION:

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

COMMENTS:

The Commission appreciates the intent of this measure to provide for the timely review by the Commission of applications by public utilities for Commission authorization to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness.

The Commission appreciates the intent of this measure to provide for the timely review by the Commission of applications by public utilities for Commission authorization to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness by requiring the Commission to issue a decision within six months from the date any such application is filed.

The Commission is cognizant of and sensitive to the fact that many of the public utilities regulated by the Commission are very capital-intensive, and that their ability to quickly secure capital when needed is vital for the provision of safe, reliable, and adequate

service to all their customers. Consequently, the Commission has worked and continues to work diligently to issue a timely decision for any application by a public utility requesting authorization to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness.

The Commission believes that this bill is unnecessary because public utilities already include within any applications requesting authorization to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness a date by which they would like the Commission to issue a decision. When reviewing these applications, the Commission has generally issued its decision on or before any specifically requested date by which a public utility would like the Commission to issue its decision. The Commission has historically taken about five months on average to issue a decision for these applications and has even issued decisions as quickly as two months when requested.

The Commission remains committed to completing its reviews of any application requesting authorization to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness as timely as possible.

Thank you for the opportunity to testify on this measure.



**Testimony to
The Committee on Consumer Protection and Commerce**

Tuesday , February 28, 2023

2:00 PM

**Conference Room 329 & VIA videoconference
Hawaii State Capitol**

HB 367

Chair Nakashima, Vice Chair Sayama, and members of the committees,

Hawaii Gas **offers comments on** **HB 367**, requiring the public utilities commission to issue a decision within six months from the date that a public utility has filed a financial application request to enter into any stock, certificates, bonds, notes, and other indebtedness arrangements.

Established in 1904, Hawaii Gas serves over 70,000 customers on all islands through its pipeline and delivery services, all of whom depend on the company for sustainable, reliable, and affordable gas for water heating, cooking, drying, and other commercial and industrial applications. The company employs some 350 professionals, over 75% of whom are members of the Teamsters Union and provides both regulated and unregulated utility operations.

This bill will require the commission to make every effort to complete its deliberations and issue its approval or disapproval as expeditiously as possible and within six months from the date the public utility corporation filed its completed financial application request. Lengthy regulatory approvals often generate additional fees for the utility and ratepayers because lenders are often unwilling to provide firm financing commitments for extended periods of time because market conditions, like interest rates, can change significantly with time. In securitized transactions with syndicated debt, lenders typically require ticking fees which can be costly for ratepayers to keep interest rates locked during the regulatory approval process. Further, long regulatory approval processes can discourage premier banks with more competitive rates from participating in the syndication. Financing costs are recovered from ratepayers so actions that bring greater certainty and speed to the regulatory approval process benefit ratepayers greatly.

Thank you for allowing Hawaii Gas the opportunity to present these comments for the Committee's consideration.