
A BILL FOR AN ACT

RELATING TO ELECTRIC UTILITIES.

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

1 SECTION 1. The legislature finds that the State's ongoing
2 energy transition from fossil fuels to renewable energy has been
3 driven and supported by certain key energy laws and regulatory
4 policies that were established after years, if not decades, of
5 continued advocacy efforts. These laws and regulatory policies
6 include, among others, the renewable portfolio standards laws
7 established under part V of chapter 269, Hawaii Revised
8 Statutes; the performance-based regulation framework created by
9 the public utilities commission for electric utilities; and the
10 encouragement and oversight of renewable power purchase
11 agreements by the public utilities commission, which are
12 contractual agreements entered into by electric utility
13 companies and independent power producers for, among other
14 things, the development and production of new utility-scale
15 renewable energy projects.

16 Notwithstanding, the legislature further finds that a
17 bankruptcy or reorganization proceeding involving an electric



1 utility company in the State could result in the acquisition,
2 merger, or consolidation of that electric utility company by an
3 acquiring entity that could ultimately lead to a change in
4 management and control. In a worst-case scenario, the acquiring
5 entity may seek to weaken, alter, or reverse those key state
6 energy laws, policies, frameworks, and agreements that have
7 greatly contributed to the State's progress towards meeting its
8 renewable energy goals, or reduce the electric utility's
9 capacity to maintain a qualified and knowledgeable workforce
10 with the ability to support and pursue the State's renewable
11 energy goals, as well as to ensure safe, efficient, reliable,
12 and contiguous electric utility service to local consumers and
13 the community.

14 Accordingly, the purpose of this Act is to:

- 15 (1) Require the public utilities commission to consider
16 whether approving a proposed merger or acquisition
17 would or would not further the State's renewable
18 energy goals; and
- 19 (2) Establish a process to ensure that when an application
20 for the proposed acquisition, merger, or consolidation
21 of an electric utility company is filed with the



1 public utilities commission by an acquiring entity
 2 that is an investor-owned utility, alternative
 3 applications from entities that operate under a non-
 4 investor-owned utilities ownership model may be
 5 concurrently submitted and reviewed.

6 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
 7 amended by adding two new sections to part I to be appropriately
 8 designated and to read as follows:

9 **"§269-A Acquisition, merger, or consolidation of electric**
 10 **utility companies; conditions of approval.** (a) The public
 11 utilities commission shall consider whether approving a proposed
 12 merger or acquisition of an electric utility company by an
 13 acquiring entity would or would not further the State's
 14 renewable energy goals.

15 (b) The acquiring entity shall not terminate any existing
 16 and valid power purchase agreement between the electric utility
 17 company and an independent power producer of energy services
 18 based solely on the completion of the acquisition, merger, or
 19 consolidation; provided that nothing in this subsection shall
 20 prevent the termination of a contractual agreement as permitted
 21 by its terms, subject to approval by the public utilities



1 commission. The acquiring entity shall not attempt to
2 renegotiate any material provisions of any existing and valid
3 power purchase agreement, including but not limited to the
4 established payment rates for energy or energy storage or other
5 commercial terms; provided that nothing in this subsection shall
6 prevent the amending of a contractual agreement as may be
7 permitted under its terms, subject to approval by the public
8 utilities commission. Before the completion of the acquisition,
9 merger, or consolidation of the electric utility company, the
10 acquiring entity shall not unduly influence the terms of any
11 power purchase agreement that is under negotiation between the
12 electric utility company and an independent power producer of
13 energy services.

14 (c) The acquiring entity shall assume and be bound by the
15 terms and conditions of any existing collective bargaining
16 agreement at the time of the acquisition, merger, or
17 consolidation, as it applies to covered employees.

18 (d) The acquiring entity shall retain all covered
19 employees, and shall not induce or cause a reduction in force,
20 or terminate a covered employee, other than for cause consistent
21 with any collective bargaining agreement.



1 (e) For the purposes of this section:

2 "Acquiring entity" means the entity that acquires all or
3 some classes of an electric utility company's interests in an
4 interest exchange, including but not limited to interest in any
5 road, line, plant, system, or other real or personal property
6 necessary for the performance of the electric utility's duties
7 to the public or any franchise or permit, or right thereunder.

8 "Covered employee" means an individual who is employed by
9 and is a party to a collective bargaining agreement with an
10 electric utility company immediately before an acquisition,
11 merger, or consolidation of the electric utility company by an
12 acquiring entity, as approved by the public utilities
13 commission.

14 "Electric utility company" means a public utility as
15 defined in section 269-1, for the production of, conveyance,
16 transmission, delivery, or furnishing of power.

17 **§269-B Acquisition, merger, or consolidation of electric**
18 **utility companies; investor-owned acquiring entities;**

19 **consideration of alternative applications.** (a) The public
20 utilities commission shall, upon receiving an application for
21 the acquisition, merger, or consolidation of an electric utility



1 company, commence a regulatory proceeding to review the
2 application. Notwithstanding the provisions of sections
3 269-7.5, 269-18, and 269-19, upon commencement of the regulatory
4 proceeding to review the application, if the application
5 proposes the acquisition, merger, or consolidation of an
6 electric utility company by an acquiring entity that is an
7 investor-owned utility, the public utilities commission shall,
8 for a period of one hundred eighty days, suspend its review of
9 the application and immediately establish a process, subject to
10 the requirements of this section, for the consideration of
11 alternative applications from acquiring entities that operate
12 under a non-investor-owned utilities ownership model.

13 (b) If bona fide applications are submitted to the public
14 utilities commission by acquiring entities that operate under a
15 non-investor-owned utilities ownership model for the
16 acquisition, merger, or consolidation of the electric utility
17 company within the one hundred eighty day period, the public
18 utilities commission shall review the applications concurrently.
19 The electric utility company shall have no obligation to
20 affirmatively state its position in support of or in opposition
21 to any pending application.



1 (c) Notwithstanding any law or rule to the contrary, the
2 public utilities commission shall have the power to consolidate
3 its review of all submitted applications pursuant to this
4 section.

5 (d) This section shall not apply to the acquisition,
6 merger, or consolidation of a not-for-profit enterprise that is
7 not owned by shareholders.

8 (e) For the purposes of this section:

9 "Acquiring entity" has the same meaning as defined in
10 section 269-A.

11 "Electric utility company" means a public utility as
12 defined in section 269-1, for the production of, conveyance,
13 transmission, delivery, or furnishing of power.

14 "Non-investor-owned utilities ownership model" means a
15 member-owned cooperative utility or any not-for-profit
16 enterprise that is not owned by shareholders."

17 SECTION 3. In codifying the new sections added by
18 section 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.

21 SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

PUC; Electric Utility Companies; Acquisitions; Mergers; Consolidations; Conditions of Approval; Application Review Process; Alternative Applications; Non-Investor-Owned Utilities Ownership Models; Bargaining Agreements

Description:

Requires the Public Utilities Commission to consider whether approving a proposed merger or acquisition would or would not further the State's renewable energy goals. Establishes a process to ensure that when an application for the proposed acquisition, merger, or consolidation of an electric utility company is filed with the PUC by an acquiring entity that is an investor-owned utility, alternative applications filed by acquiring entities that operate under a non-investor-owned utilities ownership model will be concurrently reviewed. Requires an acquiring entity of an electric utility company to assume and be bound by any existing collective bargaining agreements entered into by the electric utility company, as it applies to covered employees. Effective 7/1/2050. (SD2)

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