

JAN 23 2025

A BILL FOR AN ACT

RELATING TO POWER OUTAGES.

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

1 SECTION 1. The legislature finds that in June 2024,
2 Honolulu's downtown and Chinatown experienced multiple power
3 outages, the largest of which resulted in the loss of power for
4 roughly three thousand customers of Hawaiian Electric. Local
5 businesses suffered devastating losses totaling thousands of
6 dollars as a result of the power outages: perishable inventory
7 went bad, dark storefronts led to a drop in foot traffic, and
8 equipment was damaged due to power fluctuations. For the small
9 businesses affected, these issues threatened their ability to
10 make payroll, pay bills, and timely pay rent. As the businesses
11 dealt with these threats, they also bore the burden of filing
12 claims with Hawaiian Electric for compensation within thirty
13 days, complete with supporting documentation. Over three
14 hundred claims were filed with Hawaiian Electric in the
15 aftermath of the blackouts, nearly half as many as were filed
16 with the utility in the entire preceding year, but even so, news
17 reports indicated that many more potential claims were not filed



1 due to uncertainty or doubt about whether Hawaiian Electric
2 would cover certain losses or ultimately compensate the business
3 for damages.

4 The legislature further finds that the uncertainty was
5 understandable and continues to persist today. For example,
6 according to Hawaiian Electric's website, customers can file a
7 damage claim for "any loss caused by [an] outage" (although
8 elsewhere on the website, claims appear to be limited to
9 "sensitive electronic equipment ... damaged as the result of a
10 power outage"). But, under rule 16 of the public utilities
11 commission, a utility is only required to compensate customers
12 for losses "determined by the Company to be within the Company's
13 control." Not surprisingly, utilities rarely determine that a
14 loss or damage was within their control; in 2023, ninety per
15 cent of damage claims filed with Hawaiian Electric were denied.
16 Even when a claim is approved, the time between the outage and
17 payment can be excruciating. A month after the Chinatown
18 blackout, the investigation into the cause of the outage had not
19 been completed, no claims had been paid out, and Hawaiian
20 Electric had instead issued "courtesy payments" of \$500 for
21 those business customers who submitted claims. In November



1 2024, businesses finally received an update: Hawaiian Electric
2 had determined that it was not responsible for the outages but
3 offered to cover up to fifty per cent of losses "as a gesture of
4 goodwill."

5 The legislation finds that this system unacceptably fails
6 to provide utility customers with a clear, fair, equitable, and
7 efficient system through which they are compensated for losses
8 stemming from power outages. Other states such as Illinois have
9 modified their statutory regimes to address this problem by
10 shifting the burden of responding to these losses to the
11 utility, rather than the customer. Illinois' system provides
12 that when a power outage exceeds a certain threshold, the
13 utility must compensate customers for all actual damages
14 incurred due to the outage. The utility can seek a waiver by
15 demonstrating to the utilities commission that the outage was a
16 result of narrowly delineated circumstances legitimately beyond
17 the utility's control, but in all other cases, compensation must
18 be paid. The legislature finds that the implementation of a
19 similar scheme in Hawaii will greatly reduce uncertainty and
20 financial precarity stemming from losses incurred during major
21 power outages.



1 Accordingly, the purpose of this Act is to:

2 (1) Create a default rule requiring a regulated utility to
3 compensate customers for all actual damages incurred
4 as a result of a power interruption affecting more
5 than one thousand customers for four or more hours;

6 (2) Enable a regulated utility to seek a waiver from the
7 public utilities commission relieving them of the
8 obligation to compensate customers, but only if the
9 public utilities commission determines that the
10 interruption was the result of a specific subset of
11 circumstances legitimately outside of the utility's
12 control;

13 (3) Prevent a regulated utility from recovering losses and
14 expenses from ratepayers; and

15 (4) Establish a clear timeline under which a regulated
16 utility must pay compensation or seek a waiver, and
17 under which the public utilities commission must issue
18 a decision on a waiver sought by a regulated utility.

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



1 "§269- Power outage compensation. (a) If more than
2 one thousand of the total customers of an electric utility are
3 subjected to a continuous power interruption of four hours or
4 more during which there is a total loss of power transmission or
5 power is transmitted at less than fifty per cent of the standard
6 voltage, the utility shall compensate customers affected by that
7 interruption in an amount equal to actual damages suffered as a
8 result of the power interruption. Actual damages shall not
9 include consequential damages or litigation costs.

10 (b) The utility shall also reimburse any government entity
11 for any power interruption as described in subsection (a) in an
12 amount equal to the emergency and contingency expenses incurred
13 by the government entity as a result of the power interruption.

14 (c) A waiver of the compensation and reimbursement
15 requirements under subsections (a) and (b) may be granted by the
16 commission if the utility can demonstrate that the power
17 interruption was a result of the following:

18 (1) Unpreventable damage due to weather events or
19 conditions;

20 (2) Customer tampering;



1 (3) Unpreventable damage due to civil or international
2 unrest or animals; or

3 (4) Damage to utility equipment or other actions by a
4 party other than the utility, its employees, agents,
5 or contractors.

6 The loss of revenue for a utility or the expenses incurred by
7 the utility for complying with this subsection shall not be
8 recovered from ratepayers.

9 An application for a waiver under this subsection shall be
10 submitted to the commission within thirty days of the power
11 interruption. If a utility fails to submit an application for a
12 waiver within thirty days, the utility shall be deemed to
13 forfeit its right to obtain a waiver under this subsection.

14 Within ninety days of submission of the application for a
15 waiver, the commission shall issue a decision to deny or approve
16 the application.

17 (d) No later than twenty-four hours prior to planned or
18 routine maintenance or repairs of a utility's equipment that
19 will result in transmission of power at less than fifty per cent
20 of the standard voltage, a loss of power, or power fluctuation,



1 the utility shall make reasonable efforts to notify potentially
2 affected customers.

3 (e) Claims under this section shall be submitted to the
4 utility within one hundred fifty days of the power interruption,
5 unless extended by the governor or the commission.

6 (f) The utility shall have thirty days from the
7 commission's decision under subsection (c) or thirty days from
8 the date the claim is submitted to the utility, whichever is
9 later, to issue a decision to approve, deny, or partially
10 approve and partially deny the claim; provided that the
11 commission may for good cause extend the deadline to issue a
12 decision. No claim amount for actual damages shall be denied by
13 the utility unless the utility obtains a waiver under subsection
14 (c). Payments for an approved or partially approved and
15 partially denied claim shall be made on the date of the
16 utility's decision. Payments shall not be paid out of funds
17 collected from utility rate payers.

18 (g) If a utility issues a decision to deny or partially
19 approve and partially deny a claim, the claimant shall have a
20 right of appeal to the commission; provided that the appeal is



1 filed within thirty days after the decision was mailed to the
2 claimant.

3 (h) This section shall not diminish or replace other civil
4 or administrative remedies available to a customer or a class of
5 customers, including the commission's authority to fine and
6 impose other penalties on a utility.

7 (i) The commission, by rule adopted under chapter 91,
8 shall require an electric utility to maintain service records
9 detailing information on each instance of transmission of power
10 at less than fifty per cent of the standard voltage, loss of
11 power, or power fluctuation that affects ten or more customers.
12 Occurrences that are momentary shall not be required to be
13 recorded or reported. The service record shall include the
14 following information for each occurrence:

- 15 (1) The date;
- 16 (2) The time of occurrence;
- 17 (3) The duration of the incident;
- 18 (4) The number of customers affected;
- 19 (5) A description of the cause;
- 20 (6) The geographic area affected;



- 1 (7) The specific equipment involved in the fluctuation or
- 2 interruption;
- 3 (8) A description of measures taken to restore service;
- 4 (9) A description of measures taken to remedy the cause of
- 5 the power interruption or fluctuation;
- 6 (10) A description of measures taken to prevent a future
- 7 occurrence;
- 8 (11) The amount of remuneration, if any, paid to affected
- 9 customers; and
- 10 (12) A statement of whether the fixed charge was waived for
- 11 affected customers.

12 A copy of each record shall be filed with the commission and
13 shall be available for public inspection. Copies of the records
14 containing this information shall also be publicly available on
15 the utility's website for not less than ten years after the date
16 of the occurrence."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. New statutory material is underscored.



S.B. NO. 1648

1 SECTION 5. This Act shall take effect on January 1, 2026.

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INTRODUCED BY:

Kal Rhoad



S.B. NO. 1648

Report Title:

Utility; Electricity; Outage

Description:

Establishes requirements for compensation to utility customers following a power outage.

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